UNITED NATIONS

GENERAL ASSEMBLY

Distr.
GENERAL

A/AC.193/SR.1
23 August 1978

ORIGINAL: ENGLISH

SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS

SUMMARY RECORD OF THE 1st MEETING

Held at Headquarters, New York,
on Monday, 21 August 1978, at 3 p.m.

Temporary Chairman: Mr. SYTENKO (Representative of the Secretary-General)

Chairman: Mr. CUEVAS CANCINO (Mexico)

CONTENTS

Opening of the session

Election of officers

Adoption of the agenda

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The meeting was called to order at 3.45 p.m.

OPENING OF THE SESSION

1. The TEMPORARY CHAIRMAN recalled that, in establishing the Special Committee by its resolution 32/150, the General Assembly had considered that, in conformity with the United Nations Charter, States should refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations, and had reaffirmed the need for universal and effective application of that principle in international relations.

2. The mandate of the Special Committee and its work had a direct bearing on the determination of the peoples of the United Nations to save succeeding generations from the scourge of war, as proclaimed in the United Nations Charter, on mankind's quest for the consolidation of peace and the strengthening of international security, on the extension of the process of relaxation of tensions to all regions of the world and on the deepening and consolidation of international détente.

3. In its resolution, the General Assembly had also reaffirmed the need not only for universal and effective application of the principle of non-use of force but also for assistance by the United Nations in that endeavour. Although the record of such assistance by the United Nations went back to the days of the inauguration of the Organization, a new and important development towards universal and effective application of the principle of non-use of force had been gaining momentum in the course of the past two years. He referred, in that connexion, to General Assembly resolution 31/9 and to the report of the Secretary-General (A/32/181 and Add.1) containing the views and suggestions of Member States on the conclusion of a world treaty on non-use of force in international relations.

4. The current session of the Special Committee was a logical move towards the conclusion of such a treaty. Being under an obligation to report to the General Assembly on its work, the Special Committee had a special responsibility to achieve meaningful, positive and constructive results which would enable the Assembly to make substantial progress towards the goals set forth in its decisions.

The meeting was suspended at 3.50 p.m. and resumed at 5.15 p.m.

ELECTION OF OFFICERS

5. Mr. Cuevas Cancino (Mexico) was elected Chairman by acclamation.

6. Mr. Cuevas Cancino (Mexico) took the Chair.

7. The CHAIRMAN said that many of the circumstances obtaining at the inception of the United Nations had changed. In the area of the non-use of force in international relations, those changes were reflected in a number of international

(The Chairman)

instruments. The prohibition of the use of force had always been one of the prime concerns of nations. In Latin America, for example, many efforts had been made in that direction since the attainment of independence.

8. He expressed the hope that the Special Committee would approach its task with an open mind and accord to it the importance it deserved.

9. Mr. Jacovides (Cyprus), Mr. Kodjovi (Togo) and Mr. Kostov (Bulgaria) were elected Vice-Chairmen by acclamation.

10. Mr. Duchene (Belgium) was elected Rapporteur by acclamation.

ADOPTION OF THE AGENDA

11. The agenda was adopted.

The meeting rose at 5.45 p.m.

UNITED NATIONS

GENERAL ASSEMBLY

Distr.
GENERAL

A/AC.193/SR.2
24 August 1978

ORIGINAL: ENGLISH

SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS

SUMMARY RECORD OF THE 2nd MEETING

Held at Headquarters, New York,
on Tuesday, 22 August, at 10.30 a.m.

Chairman: Mr. Cuevas CANCINO (Mexico)

later: Mr. JACOVIDES (Cyprus)

CONTENTS

Tribute to the memory of President Mzee Jomo Kenyatta

Organization of work

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The meeting was called to order at 10.55 a.m.

TRIBUTE TO THE MEMORY OF PRESIDENT MZEE JOMO KENYATTA

1. On the proposal of the Chairman, the members of the Committee observed a minute of silence in memory of President Mzee Jomo Kenyatta.

ORGANIZATION OF WORK

2. Mr. Jacovides (Cyprus) took the Chair.

3. Mr. KOLESNIK (Union of Soviet Socialist Republics) said he did not think that the question of the organization of work presented any particular difficulties. The Committee should adhere to United Nations practice and bear in mind its lofty goals and the responsibilities of each member. In accordance with the method followed by previous special committees of the General Assembly, the Committee should begin with a general debate. The question of the non-use of force in international relations lay at the very basis of the Charter, and it was essential that delegations should be given the opportunity to supplement or modify the views they had expressed during previous discussions of the subject. The Committee could decide on the question of the length of the general debate at a later stage, depending on the outcome of discussions.

4. Mr. SOKALSKI (Poland) said that the Committee was faced with the unique task of discussing the question of enhancing the effectiveness of a principle which was the corner-stone of the Charter. The Committee should use its time to the fullest possible extent, bearing in mind budgetary and administrative considerations. His delegation felt that the suggestions made by the representative of the Soviet Union constituted a very sound basis for the organization of work. The Committee should initiate a general debate immediately and try to finish it as quickly as possible; in the meantime informal consultations could take place on how to organize the Committee's work so as to make the best possible use of the time available.

5. The CHAIRMAN said he took it that the Committee agreed that it should start with a general debate, after which, in the light of informal consultations, it would discuss the next stage of the organization of work.

6. It was so decided.

The meeting rose at 11.15 a.m.

UNITED NATIONS

GENERAL ASSEMBLY

Distr.
GENERAL

A/AC.193/SR.3
25 August 1978

ORIGINAL: ENGLISH

SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS

SUMMARY RECORD OF THE 3rd MEETING

Held at Headquarters, New York,
on Wednesday, 23 August 1978, at 10.30 a.m.

Chairman: Mr. CUEVAS CANCINO (Mexico)

CONTENTS

General debate

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The meeting was called to order at 11 a.m.

GENERAL DEBATE

1. The CHAIRMAN drew attention to the "Draft World Treaty on the Non-use of Force in International Relations: proposal submitted by the Union of Soviet Socialist Republics" (A/AC.193/L.3), which had been circulated at the meeting.

2. Mr. KOLESNIK (Union of Soviet Socialist Republics) said his delegation hoped that the members of the Committee would take a constructive approach to the exceptionally important task entrusted to them by the General Assembly so as to attain positive results. He recalled that the adoption of the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States and of the Definition of Aggression had been made possible by a spirit of co-operation and compromise and a desire to achieve progress in the common cause of strengthening international peace and security, and he hoped that the same spirit would prevail in the Committee.

3. The Soviet Union's position on the question of concluding a world treaty on the non-use of force in international relations was well known; the idea of concluding such a treaty, which had been put forward by the General Secretary of the Central Committee of the Communist Party of the Soviet Union and Chairman of the Presidium of the Supreme Soviet of the USSR, Mr. L. I. Brezhnev, had already met with approval and support not only among the broadest circles of world public opinion but also among the overwhelming majority of States Members of the United Nations. The relevant resolutions adopted at the thirty-first and thirty-second sessions of the General Assembly and the statements of delegates at plenary meetings and at meetings of the First and Sixth Committees, as well as the comments submitted by Governments, showed broad recognition of the timeliness and importance of the Soviet proposal and the belief that the draft treaty submitted by the Soviet Union in 1976 could serve as a basis for working out a final text of the treaty. Thus, the most favourable possible conditions existed for the success of the Committee's work.

4. The Soviet Government had submitted the draft treaty in the belief, as stated in the letter of 28 September 1976 to the Secretary-General from the Minister for Foreign Affairs of the USSR, Mr. A. A. Gromyko, that the conclusion of a world treaty on the non-use of force in international relations would be a natural continuation of the efforts of the United Nations and its Member States to strengthen international peace and security and would reduce the danger of the outbreak of another world war; that, as a result, more favourable conditions would undoubtedly be created for curbing the arms race, limiting arms, including nuclear arms, and making progress towards general and complete disarmament, and that all States would stand to gain, irrespective of their social systems, the size of their territories or populations, or whether or not they possessed nuclear weapons. Throughout its history, the Soviet State, which had recently celebrated its sixtieth anniversary, had consistently opposed all forms of violence in relations between States and advocated the affirmation of peaceful coexistence in international relations on the basis of the pivotal principle of the non-use of

(Mr. Kolesnik, USSR)

force. That had been the unchanging foreign policy of the Soviet State from Lenin's Decree on Peace to the Programme of Peace submitted by the Twenty-Fourth Congress of the Communist Party of the Soviet Union and the programme for the further struggle for peace, international co-operation and the freedom and independence of peoples adopted at the Twenty-Fifth Congress.

5. Considerable progress had been achieved, and the principle of the non-use of force had been recognized by virtually all States as one of the main foundations of international relations. That recognition was reflected in the Charter, which legally confirmed the fundamental principles of contemporary international law. The formulation of the principle of the non-use of force in Article 2, paragraph 4, of the Charter prohibited not only aggressive wars but also the threat or use of force against any State. That key provision of the Charter had been authoritatively confirmed and developed in a number of international instruments, particularly in General Assembly resolutions 2625 (XXV) (Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations), 2936 (XXVII) (Non-use of force in international relations and permanent prohibition of the use of nuclear weapons) and 3314 (XXIX) (Definition of aggression) and in the Final Act of the Conference on Security and Co-operation in Europe. The principle of the non-use of force had also been confirmed in a number of bilateral treaties, agreements and other documents, for example, the agreements of the USSR, the Polish People's Republic, the German Democratic Republic and the Czechoslovak Socialist Republic with the Federal Republic of Germany, the quadripartite agreement on West Berlin, the agreements of the USSR with France and the United States on mutual relations and the agreement between the USSR and the United States on the prevention of nuclear war. All those international instruments, whether multilateral or bilateral, stressed the unconditional obligation of States to resolve their disputes and disagreements by exclusively peaceful means and to refrain from the threat or use of force in international relations.

6. The broad international recognition and legal confirmation of the principle of the non-use of force did not mean, however, that peace-loving States could abandon or relax the struggle for the strict implementation of that principle and the enhancement of its effectiveness. It was important not only to proclaim just principles of relations among States but also to make them a reality in contemporary international relations. The development of post-war international relations had shown that the confirmation of the principle of the non-use of force had not in practice prevented acts of aggression and other breaches of peace. Although for more than three decades mankind had succeeded in preventing a new world war, the world had witnessed over a hundred wars and armed conflicts, in which millions of people had perished, since the entry into force of the Charter. Certain circles in the West still preached the admissibility of "local", "restricted" or "controlled" armed conflicts, even though the constant development of nuclear weapons posed a real threat of the escalation of such conflicts into a world-wide thermo-nuclear war and the danger of such doctrines was recognized by the entire international community. The proposal of the Soviet Union to draft a world treaty on the non-use of force in international relations was aimed

(Mr. Kolesnik, USSR)

precisely at averting that threat and ensuring the practical observance of the principle of the non-use of force in international relations; the Soviet delegation considered that the proposal was of decisive significance in the struggle for peace and the strengthening of international détente and that it was the most direct means of ensuring genuine observance of the key obligation of the non-use of force.

7. Although in recent years there had been substantial progress in the world political arena, particularly in developing relations between States with different social systems and in strengthening the principles of peaceful coexistence, there were still active forces at work in the world which were striving to undermine the process of détente, whip up the arms race, create new types of lethal weapons and strengthen the aggressive military blocs and which were trying to revive an atmosphere of mistrust and fear in inter-State relations and exacerbate hotbeds of tension. The contemporary international situation showed that the task of strengthening peace and international security and of resisting imperialist aggression and diktat was a matter of urgency. The Soviet Government believed that the conclusion of a world treaty on the non-use of force in international relations would unquestionably contribute to resolving that problem.

8. The draft World Treaty on the Non-Use of Force in International Relations (A/AC.193/L.3) took into account the fact that the parties would already have taken on the solemn obligation, under the Charter, to maintain peace and settle their disputes by exclusively peaceful means and to refrain from the threat or use of force in their international relations. The main purpose of the draft Treaty was therefore to ensure more effective observance of the obligations entered into under the Charter. Thus, the preamble to the draft stated that the High Contracting Parties were "inspired by the desire to make renunciation of the use or threat of force in international relations involving all types of weapons a law of international life" since the principle of the non-use of force, laid down in the Charter and confirmed in other international instruments, had not yet been sufficiently developed and was not adequately reflected in existing legal norms. Indeed, there was still disagreement among States on the meaning of the term "force" in the United Nations Charter. Since the international instruments concerned with specific normative aspects of the principle of the non-use of force were mainly resolutions of the General Assembly, they were in the form of recommendations.

9. Article I of the draft Treaty reflected that general approach by stressing that the High Contracting Parties should "strictly abide" by their undertaking not to use force or the threat of force under Article 2, paragraph 4, of the Charter. That key obligation was further developed in relation to the objective political and military realities of the present-day world, and the draft Treaty was concerned above all with the renunciation by States of the most dangerous form of the unlawful use of force, namely the use of armed forces involving any types of weapons, including nuclear or other types of weapons of mass destruction. Thus, the draft Treaty was in no way a mere confirmation of the existing obligations of States under the Charter but envisaged that the Parties would take on additional obligations, which, however, would not replace or alter the basic

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(Mr. Kolesnik, USSR)

obligation under the Charter to refrain from the threat or use of force in the settlement of disputes. As to the question of whether it was appropriate to develop the Charter obligation, there had been many cases in which a basic principle of international law laid down in the Charter had been confirmed and developed in special international instruments, but the adoption of such instruments could not throw doubt on the legal force or authority of the Charter. Indeed, the Charter envisaged the possibility and need for the adoption of special international instruments and, in Article 11, paragraph 1, and Article 13, paragraph 1, empowered the General Assembly to make recommendations in that regard. A clear example of such activity by the United Nations was the codification of the principle of universal respect for human rights and fundamental freedoms laid down in the Charter - first in the Universal Declaration of Human Rights in the form of recommendations and then in a number of international agreements and treaties, including the International Covenants on Human Rights, which had binding legal force. Similarly, in relation to the development of the principle of disarmament, the United Nations had participated actively in drafting the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Subsoil Thereof, the Treaty on the Non-Proliferation of Nuclear Weapons and a number of other agreements. Although the principle of the non-use of force had also been confirmed and developed in General Assembly resolutions and in bilateral and multilateral treaties and agreements, the conclusion of a world treaty would bring together in legally binding form the elements of the principle of the non-use of force developed in other international documents and raise the level of the obligations deriving from that principle on a universal basis.

10. The provisions of article I, paragraph 1, second part, of the draft Treaty were of the utmost importance. The Soviet delegation believed that, since contemporary international law prohibited the use of force in inter-State relations, it was obvious that the use of all types of armed force and weapons, and particularly nuclear and other types of weapons of mass destruction, was covered by that prohibition. The prohibition of the use of all types of weapons was the first and essential step towards the absolute prohibition of the use of particular types of weapons and the solution of the problems of disarmament and the limitation of the arms race. The question of prohibiting the use of any types of weapons for purposes of aggression was logically linked with the "effective measures for lessening military confrontation and for disarmament" called for in article IV. The Soviet draft Treaty's approach to the problem of prohibiting the use of armed forces involving any types of weapons had won broad recognition and was confirmed, for example, in article 3 (b) of the 1974 Definition of aggression, which had been adopted on the basis of consensus.

11. The broad international support for the need to enhance the effectiveness of the principle of the non-use of force, prohibit the use of nuclear weapons and achieve disarmament could be seen from General Assembly resolution 1653 (XVI), the Declaration on the prohibition of the use of nuclear and thermo-nuclear weapons, and General Assembly resolution 2936 (XXVII), to which he had already referred. The Declaration contained in the Final Document of the tenth special session of

(Mr. Kolesnik, USSR)

the General Assembly (A/RES/S-10/2) singled out measures designed to prevent the outbreak of nuclear war and to lessen the danger of the threat or use of nuclear weapons among other measures to ensure the survival of mankind and to eliminate the danger of war. The Soviet Government proposed that those solemn declarations of the General Assembly should be given the force of treaty norms so that a real step could be made towards preventing nuclear war and ensuring the true security of mankind. That step was essential in view of the rapid development of science and technology which made possible the creation and improvement of nuclear weapons, the most devastating of all weapons. In the nuclear era there was no alternative to peaceful coexistence and that required, above all, that States should refrain from the use of armed forces involving any types of weapons, including nuclear or other types of weapons of mass destruction.

12. A special characteristic of the Soviet draft was that, in article IV, in article I, paragraph 2, and in article II, third paragraph, it envisaged additional means of ensuring the fulfilment of the key obligation of the non-use of force.

13. The Soviet draft Treaty made direct provision for the Parties to take appropriate measures at the inter-State level so as to ensure compliance with their obligations under the Treaty. It was for precisely that reason that the Soviet Union had included in its new Constitution a special chapter which proclaimed among the basic goals of its foreign policy the struggle for peace and international security, the prevention of aggressive wars and the attainment of general and complete disarmament and which confirmed the adherence of the Soviet Union to the basic principles of international law, including the principle of the non-use of force.

14. The Soviet draft Treaty left no loopholes for evading the basic obligation of the non-use of force in international relations; he drew particular attention in that regard to article I, paragraph 3. At the same time, the draft in no way infringed on the right of States to individual or collective self-defence envisaged in Article 51 of the Charter; under article III in particular, it retained the right of each State to repel aggression and eliminate its consequences. Nothing in the draft Treaty was prejudicial to the right of colonial peoples to independence and freedom, in accordance with the Charter, or to their right to wage a struggle towards those ends and to seek and receive support in accordance with the principles of the Charter. Thus, the main political significance of the draft Treaty was to ensure just and lasting peace and to create additional guarantees of international security as well as favourable conditions and the necessary degree of trust to resolve the most urgent problem of the present day, the ending of the arms race and the achievement of disarmament.

15. The Soviet delegation considered that the draft Treaty could be adopted as a basis for preparing a final text. At the same time, in order to meet the wishes of other States, it was prepared to study carefully all proposals which had been or might be made so as to work out a broadly acceptable text on the basis of consensus. It was convinced that such a treaty would be a major step towards realizing mankind's age-old dream of a world without weapons and without wars and that it would be an effective instrument for the radical improvement of the international situation and the development of normal good-neighbourly relations between States.

The meeting rose at 11.45 a.m.

UNITED NATIONS

GENERAL ASSEMBLY

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A/AC.193/SR.4
28 August 1978

ORIGINAL: ENGLISH

SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS

SUMMARY RECORD OF THE 4th MEETING

Held at Headquarters, New York,
on Thursday, 24 August 1978, at 10.30 a.m.

Chairman: Mr. Cuevas CANCINO (Mexico)

CONTENTS

Consideration, pursuant to paragraph 2 of General Assembly resolution 32/150, of proposals and suggestions submitted by States (continued)

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The meeting was called to order at 11 a.m.

CONSIDERATION, PURSUANT TO PARAGRAPH 2 OF GENERAL ASSEMBLY RESOLUTION 32/150, OF PROPOSALS AND SUGGESTIONS SUBMITTED BY STATES (continued) (A/AC.193/L.3)

1. Mr. de la PEDRAJA (Mexico) said that, together with fellow Latin American nations, Mexico was actively involved in the search for mechanisms to protect the peoples of the world from the unfortunate results of the use of force as an instrument of national policy. The question of a world Treaty on the non-use of force in international relations should be considered with great care by Member States lest a new legal structure should come into being which represented no improvement over the existing system embodied in the United Nations Charter.

2. While believing that the Charter afforded the best defence against actions by States detrimental to the rights of other States, Mexico recognized that the world situation in 1978 was different from the situation in 1945 reflected in the Charter. However, recent instances of open aggression, massive use of military force and direct attacks against the rights of peoples had been due primarily to a lack of respect for universal norms condemning the use of force and to the lack of a political will to uphold the purposes and principles set out in Chapter I of the Charter.

3. There were some omissions in the draft world Treaty on the non-use of force in international relations submitted by the Union of Soviet Socialist Republics (A/AC.193/L.3). Such a treaty should indicate the various manifestations of the use in international relations of not only military force but also physical force in general, as well as psychological, economic and other types of pressure. It should also include the exceptions to the general prohibition of the use of force, taking as a basis Chapters VII, VIII and XVII and Articles 53 and 107 of the Charter, as well as the Charter provisions concerning the legitimate right of peoples to freedom and independence. In addition to the peaceful means of settling disputes referred to in article II of the draft Treaty, mention should be made of such other procedures as investigation and recourse to regional organizations or agreements.

4. His delegation was prepared to support a draft treaty provided that it did not weaken or conflict with the provisions of the Charter and provided that it represented a genuine step forward in clarifying issues not envisaged by the Charter. It would serve no useful purpose to draft a text which merely reiterated the contents of the Charter.

5. Mr. SZELEI (Hungary) reaffirmed his delegation's support for the draft Treaty submitted by the Soviet Union (A/AC.193/L.3). The world community had recently witnessed violations of the principle of the non-use of force enunciated in Article 2, paragraph 4, of the Charter, and a relevant treaty drafted in conformity with the Charter would help to strengthen international peace and security, lessen the danger of new armed conflicts and curb the steadily intensifying arms race. In

(Mr. Szelei, Hungary)

that connexion, his delegation welcomed the reference in article I, paragraph 1, of the draft Treaty to nuclear or other types of weapons of mass destruction.

6. Thus, through the conclusion and strict observance of an international treaty on the non-use of force, nations could effectively contribute to the process of détente, disarmament and international co-operation. The international climate had already been greatly improved by the adoption of a number of international instruments which had contributed positively to the codification and progressive development of international law. The conclusion of a world treaty would help to maintain that trend, improving even further the climate of international relations, increasing confidence among States and enhancing the role of the United Nations.

7. His delegation rejected the argument that a treaty on the non-use of force in international relations would overlap with or weaken the relevant provisions of the Charter. On the contrary, such a treaty was clearly designed to enhance the effectiveness of the Charter; appropriate action by the Special Committee in accordance with the mandate given to it by resolution 32/150 would reflect a political will to accomplish that objective. His delegation was prepared to play a constructive role in that process.

8. A treaty on the non-use of force should in no way affect the right of individual or collective self-defence of sovereign States or the inalienable rights of peoples under colonial and racist régimes in their struggle for freedom and self-determination. His delegation vigorously supported the substance of the draft Treaty, which represented a sound basis for future deliberations of the Special Committee on the issue.

9. The CHAIRMAN said that the following States not members of the Special Committee had requested an opportunity to participate in its work: Czechoslovakia, the German Democratic Republic, Nicaragua, Panama and Peru. If he heard no objection, he would take it that the Special Committee agreed that representatives of Member States indicating a desire to contribute to the work of the Committee might, with its consent, address the Committee and expand on the written replies of their Governments.

10. It was so decided.

The meeting rose at 11.30 a.m.

UNITED NATIONS

GENERAL ASSEMBLY

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A/AC.193/SR.5
29 August 1978

ORIGINAL: ENGLISH

SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS

SUMMARY RECORD OF THE 5th MEETING

Held at Headquarters, New York,
on Friday, 25 August 1978, at 10.30 a.m.

Chairman: Mr. KODJOVI (Togo)

CONTENTS

Consideration, pursuant to paragraph 2 of General Assembly resolution 32/150, of proposals and suggestions submitted by States (continued)

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The meeting was called to order at 11 a.m.

CONSIDERATION, PURSUANT TO PARAGRAPH 2 of GENERAL ASSEMBLY RESOLUTION 32/150, OF PROPOSALS AND SUGGESTIONS SUBMITTED BY STATES (continued) (A/AC.193/L.3)

1. Mr. WITEK (Poland) said that the non-use of force among States was one of the fundamental principles of international relations and the corner-stone of the Charter of the United Nations. Few United Nations bodies had been entrusted with a mandate as far-reaching as that of the Special Committee. The question before the Committee was of profound political importance, and its humanitarian aspects were no less important than the legal ones. The Soviet initiative in proposing the conclusion of a world treaty on the non-use of force in international relations had received overwhelming support from Member States, and Poland had actively supported that initiative from the very outset. No country that had suffered from the use of force could ever have any reservations about enhancing the effectiveness of the principle of non-use of force, or about concluding a world treaty on the subject. The existence of such a treaty would facilitate the solution of conflict situations, both present and future, in accordance with the Charter of the United Nations, and it would constitute an important instrument for shaping international relations on a global scale. It was true that the principle of the non-use of force had been enshrined in the Charter and that a number of General Assembly resolutions on the non-use of force had been adopted, but the conclusion of a world treaty would greatly enhance the principle and develop it further. A similar approach had been used to promote the progressive development of most, if not all, the other principles laid down in the Charter. From the political point of view, in addition to strengthening mechanisms for the preservation of world peace and for the prevention and elimination of aggression, the conclusion of a world treaty on the non-use of force would help to curb the arms race and promote progress towards disarmament. It might further advance international détente and could stimulate disarmament negotiations. Progress in disarmament would in turn favourably affect the economic development of all States, particularly developing countries. From the juridical point of view, the term "non-use of force" covered older concepts such as renunciation of force, refraining from the threat or use of force and prohibition of the use of force. It covered and incorporated other legal principles such as the territorial integrity of States, political independence, territorial inviolability, non-interference in internal affairs, the sovereign equality of States, equal rights, self-determination of peoples and the peaceful settlement of disputes. Inasmuch as those principles were all inherent in the one under discussion, it would be wrong to identify the principle of non-use of force with any particular one of those principles at the expense of the others. By strengthening the principle of non-use of force, the international community would also be strengthening the other principles.

2. His delegation welcomed the draft world treaty on the non-use of force in international relations, submitted by the Soviet Union (A/AC.193/L.3). The Soviet draft emphasized practical means of ensuring general and complete respect for the principle of non-use of force in international relations. It developed the provisions of the Charter and took proper account of the major events and changes

(Mr. Filek, Poland)

that had occurred in the world since the elaboration of the Charter. However, the process of negotiating a final text might be time-consuming and difficult, and success would depend primarily on the goodwill of Governments.

3. Mr. JAIPAL (India) said that, in proposing the conclusion of a world treaty on the non-use of force in international relations, the Soviet Union had pointed out that, despite the provisions of the Charter of the United Nations and the obligation of Member States to respect those provisions, numerous armed conflicts between States had taken place since the founding of the United Nations, hotbeds of war and tension still existed in a number of areas, force had been used again and again for aggression, the acquisition of territory and the oppression of other nations and peoples, and the emergence of nuclear weapons had brought into question the very survival of life on earth. The Soviet Union therefore believed that additional efforts must be made to ensure the strict observance by all States of the principle of non-use of force in international relations. However, the nature of such additional efforts was clearly a matter of opinion. Some Member States had supported the Soviet draft treaty in substance or in principle, while others had pointed out that the draft did not reflect the provisions of Article 51 of the Charter, that it made no mention of the enforcement measures provided for in Chapter VII of the Charter or that, since the draft was an incomplete and selective reiteration of some provisions of the Charter, it would weaken the authority of the Charter. Other States had pointed out that the General Assembly had developed the principle of non-use of force in a number of resolutions and that a world treaty was therefore unnecessary. It was plain that there was no consensus on the draft treaty as originally formulated, but it must be acknowledged that the Soviet initiative was intended to strengthen the legal and political system established by the United Nations Charter. The initiative therefore deserved encouragement. Those who opposed a world treaty on non use of force should be prepared to suggest alternatives with a view to improving the world situation and resolving existing disputes, because either Member States were not observing the provisions of the Charter or, for various reasons, the system established by the Charter had failed to prevent the use of force. Since the signing of the Charter, force had been used in a variety of circumstances, and the underlying causes remained and the disputes were still unresolved. Moreover, the arms race had entered a new phase, and such a situation necessitated a re-examination of the basic concepts and obligations in the Charter. The Soviet initiative therefore provided a useful opportunity for promoting international agreement on the avoidance of the use of force in international relations and on the peaceful settlement of disputes.

4. It should be noted that the developing countries considered that there were certain exceptions to the principle of non-use of force, for example, in the case of the struggle of States and peoples against aggression, occupation, intervention, racism, colonialism, hegemony and foreign pressure and domination of all kinds. The majority of developing countries believed that the exercise of the right of self-defence was not the only situation in which the use of force was permissible. There were other rights which, given the imperfect world established by the Charter of the United Nations, must, in the last resort, be protected by force. Such a situation was a reflection on the failure of the United Nations system to live up

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(Mr. Jaipal, India)

to expectations. Consequently, when considering an international instrument on the non-use of force, it was important to take account of the urgent need to settle existing disputes peacefully, not according to any pre-conceived notions of what was right but rather in a spirit of mutual accommodation and understanding. World peace could not be maintained by accelerating the arms race, by maintaining cease-fires while ignoring the root causes of the conflicts concerned, or by dividing the world into ideological groups that competed for domination. As long as intolerance, inequality and injustice continued to exist, the value of a treaty on the non-use of force would be seriously limited by the large number of exceptions in which the use of force was permitted.

The meeting rose at 11.30 a.m.

UNITED NATIONS

GENERAL ASSEMBLY

Distr.
GENERAL

A/AC.193/SR.6
30 August 1978

ORIGINAL: ENGLISH

SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS

SUMMARY RECORD OF THE 6th MEETING

Held at Headquarters, New York,
on Monday, 28 August 1978, at 10.30 a.m.

Chairman: Mr. Cuevas CANCINO (Mexico)

CONTENTS

Consideration, pursuant to paragraph 2 of General Assembly resolution 32/150, of proposals and suggestions submitted by States (continued)

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The meeting was called to order at 10.55 a.m.

CONSIDERATION, PURSUANT TO PARAGRAPH 2 OF GENERAL ASSEMBLY RESOLUTION 32/150, OF PROPOSALS AND SUGGESTIONS SUBMITTED BY STATES (continued) (A/AC.193/L.3)

1. Mr. FIFOOT (United Kingdom) recalled that the Committee's mandate, as set out in operative paragraph 2 of General Assembly resolution 32/150, was to consider ways of promoting not only the non-use of force in international relations but also the peaceful settlement of disputes, two principles to which his country was committed and which it believed must be strengthened in order to enhance the effectiveness of the United Nations. The Committee had very wide discretion as to how it fulfilled that mandate: it could draft a treaty, or it could draw up such other recommendations as it deemed appropriate. It therefore seemed inappropriate, and certainly astonishingly premature, for the Committee to take as a starting point document A/AC.193/L.3, which assumed that the outcome of the Committee's deliberations would be a treaty, or to maintain, as the representative of the Soviet Union had done, that a "main goal" of the Committee was to produce a treaty on the non-use of force in international relations. For the time being, the Committee's task must be to examine both of the principles which he had mentioned with a view to finding ways of making them more effective.

2. His delegation believed that, even on its own terms, document A/AC.193/L.3 lacked conviction. It also bore a very close resemblance to document A/31/243, which had been submitted to the General Assembly at its thirty-first session. In his view, there was nothing to be gained by qualifying the principle of the non-use of force. Indeed, such qualification might, by compression or omission, detract from the original, more general principle. Moreover, if a second document was drafted in treaty form which added nothing substantive to the provisions of an earlier treaty, it might call into question the effect of that earlier treaty. It would be a disservice to all that the United Nations stood for if the Committee were to give those countries which sought to avoid the Charter prohibition on the use of force a means of arguing that that prohibition had been overtaken by a later instrument or that the later instrument took account of some consideration which was not contemplated in the Charter and which therefore could only have a qualifying effect.

3. The basic problem was not that there was no rule prohibiting the use of force or that some States were unaware of the existence of such a rule. All States were aware that a clear and solemn rule did exist. However, some of them were prepared to break that rule or to maintain that it did not apply. Mere repetition of the injunction against the threat or use of force would not deter those States which were prepared to break the rule. A better deterrent would be to strengthen the machinery for resolving disputes, so as to reduce the number of occasions on which States resorted to force. In situations where States asserted or pretended that the injunction against the threat or use of force did not apply, the Committee would do well to consider the exceptions and reservations invoked by those States. The representative of India had attempted to deal with that issue when he had pointed out that some developing countries considered that self-defence was not the only situation in which the use of force was regarded as permissible.

(Mr. Fifoot, United Kingdom)

4. The problem of asserted or implied exceptions or reservations to the principle of the non-use of force had various manifestations, not the least of which was the assertion that armed struggle was consistent with the Charter and that assistance to those engaged in armed struggle was, by implication at least, exempt from the injunction against the use of force. Such propositions were, however, by no means generally accepted as propositions of law. Apart from anything else, it was difficult to determine objective criteria for those who might invoke them as justification for the use of force.

5. Another commonly invoked exception to the injunction against the use of force related to the responsibility of States for encouragement of the use of force in international relations either by proxy or covertly, for example, the encouragement of organizations or groups of individuals to inflict violence on a weak State. States guilty of such encouragement all too often disclaimed responsibility for the ensuing violence or even attempted to justify it. Force was force, however, and the United Nations could not afford to turn a blind eye to it.

6. Another situation in which States sought to invoke exceptions to the injunction against the use of force in international relations was that in which religious orthodoxy was imposed by force on States which had developed what other States sharing the same creed regarded as heretical or schismatic views. Ancient and modern history abounded in examples of such situations, one example being the defenestration of Prague on 21 May 1618, which had led to the Thirty Years War.

7. The Committee could examine further the matter of exceptions and reservations to the principle of non-use of force. If it did so, however, it should remember that its mandate was to enhance the effectiveness of that principle and by no means to weaken it or to sanction exceptions to it.

8. His delegation believed that the most logical approach would be to concentrate on finding alternatives to the use of force, i.e. to concentrate on the positive injunction to settle international disputes by peaceful means. If the ability of the United Nations to promote the peaceful settlement of disputes could be strengthened, that would help to enhance international security and to reduce the number of occasions on which States resorted to the use of force.

9. Mr. ENHSAIHAN (Mongolia) recalled that General Assembly resolution 32/155 (Declaration on the Deepening and Consolidation of Détente) had been one of the latest in a series of international instruments calling for strict adherence to the principle of the non-use of force in international relations. His delegation's position on that subject had been expressed clearly at the thirty-second session of the General Assembly and also in its reply in document A/32/122.

10. If the effectiveness of the principle of the non-use of force in international relations was enhanced, that in turn would strengthen international peace and security, consolidate international détente and provide an additional guarantee for the safety of peoples. His delegation therefore supported fully the Soviet proposal to draft a world treaty on the non-use of force which would make that principle the main rule governing relations among all States.

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(Mr. Inhseihan, Mongolia)

11. Although it was one of the fundamental principles of contemporary international law, the principle of the non-use of force had been violated on numerous occasions since it had been written into the United Nations Charter. When the Charter had been signed, nuclear weapons had been virtually non-existent. Since then, nuclear and other weapons of mass destruction had emerged, and they now threatened international peace and security. Moreover, local wars and conflicts using conventional weapons had caused incalculable suffering to millions of people in the post-war years, and the current network of military alliances carried with it the threat that such conflicts could escalate into another world war. It was therefore logical to take decisive steps to preclude the use of force as an instrument of national policy. In his delegation's view, States which invoked the inevitability of a new world war or which claimed large parts of the territory of neighbouring States were in effect threatening to use force.

12. It was clear from the response to the Soviet proposal to conclude a world treaty on the non-use of force that a large number of Member States supported that initiative. By drafting a treaty based on Article 2, paragraph 4, of the Charter, the Committee would in fact be following the traditional United Nations practice of embodying general principles of the Charter in multilateral instruments. The current détente in international relations created favourable political conditions for the conclusion of such a treaty, and the legal prerequisites for it were to be found in a succession of relevant instruments adopted by the United Nations over the years, the latest of which had been General Assembly resolution 32/155.

13. Document A/AC.193/L.3 contained a clear commitment by States to abide strictly by their undertaking not to use force or the threat of force in their mutual relations. In introducing that document, the Soviet representative had shown convincingly that the argument that a treaty on the subject might weaken the Charter was completely unfounded. In fact, the draft treaty on the non-use of force could serve as a basis for discussion and for the drafting of a mutually acceptable instrument. It was also clear from the draft treaty that nothing in the final treaty would prejudice either the right of States to individual or collective self-defence in accordance with Article 51 of the Charter or the inalienable right of colonial peoples to fight for their freedom and independence by any means at their disposal.

The meeting rose at 11.25 a.m.

UNITED NATIONS

GENERAL ASSEMBLY

Distr.
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A/AC.193/SR.7
31 August 1978

ORIGINAL: ENGLISH

SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS

SUMMARY RECORD OF THE 7th MEETING

Held at Headquarters, New York,
on Tuesday, 29 August 1978, at 10.30 a.m.

Chairman: Mr. Cuevas CANCINO (Mexico)

CONTENTS

Consideration, pursuant to paragraph 2 of General Assembly resolution 32/150, of proposals and suggestions submitted by States (continued)

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The meeting was called to order at 10.55 a.m.

CONSIDERATION, PURSUANT TO PARAGRAPH 2 OF GENERAL ASSEMBLY RESOLUTION 32/150, OF PROPOSALS AND SUGGESTIONS SUBMITTED BY STATES (continued) (A/AC.193/L.3)

1. Mr. KOSTOV (Bulgaria) said that the conclusion of a world treaty on the non-use of force would help to promote trust among States and to strengthen international security, the foundations of contemporary international law and the structure of international relations in general. A well-formulated and universally supported world treaty would exert a strong influence on all Governments, discouraging global power politics and encouraging the settlement of differences exclusively by peaceful means.

2. Despite the provisions of Article 2, paragraph 4, of the United Nations Charter, the world continued to witness a series of "local" wars, most of which constantly threatened to escalate into global conflicts with disastrous consequences. The United Nations could not stand idly by while mere lip-service was paid to the principle of the non-use of force. The violation of that principle, an attack against the corner-stone of the structure of international relations and of the international legal order, could lead to their total disintegration. Accordingly, Bulgaria had from the outset strongly supported the Soviet initiative regarding a world treaty on the non-use of force in international relations, an initiative designed not to favour any one State or group of States but to promote international law and consolidate the international legal order. The draft World Treaty submitted by the Union of Soviet Socialist Republics (A/AC.193/L.3) was an excellent basis for the work of the Committee. He wished to draw particular attention to the provisions contained in article I, paragraph 2, and in the final paragraph of article II. It was most fitting to link the principle of the non-use of force with measures to reduce the risk of military confrontation and curb the arms race.

3. The principle of the non-use of force had to be considered in close conjunction with other principles and provisions of the Charter, such as the peaceful settlement of disputes, the right of self-defence, the question of aggression and the right to self-determination. The prohibition of the use of force was essential to the attainment of several principles embodied in the Charter, such as the equality and independence of States and the elimination of diktat, colonialism and discrimination. Moreover, the legal justification for a treaty on the non-use of force could be found in Article 13, paragraph 1 (a), of the Charter. His delegation rejected the argument that such a treaty might duplicate or deviate from the Charter. Since its inception, the United Nations had progressively codified and developed Charter principles and provisions, and it was only natural that they should be further interpreted and concretized as international relations developed. That fact had been acknowledged by the General Assembly when it had decided in resolution 1815 (XVII) to undertake, pursuant to Article 13 of the Charter, a study of the principles of international law concerning friendly relations and co-operation among States in accordance with the Charter with a view to their progressive development and codification, so as

(Mr. Kostov, Bulgaria)

to secure their more effective application. That initiative had been brought to a successful conclusion with the adoption of the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations. The major question now before the Special Committee was whether States members of the Committee had the necessary political will and were prepared to carry forward the progressive development and codification of international law. On the basis of a constructive attitude and a spirit of consensus, it would be possible to produce a universally acceptable document binding on all nations.

4. Mr. AL-QAYSI (Iraq) said that, instead of enhancing the effectiveness of Charter provisions in international relations, certain States, in order to further selfish national interests, had exploited the short-comings of the international system and resorted to the threat or use of force for the purposes of aggression, acquisition of territory, colonialism and the denial of self-determination and to prevent independent nations from exercising their sovereign right to control their natural resources. The Soviet initiative to highlight the importance of enhancing the effectiveness of the Charter principle concerning the non-use of force was therefore timely, necessary and relevant.

5. No non-aligned country had escaped in its recent history from the threat or use of force to deny it an independent existence. Iraq's continuing support for the conclusion of a world treaty on the non-use of force in international relations was prompted by its own experience and by the suffering experienced by the Arab States at the hands of the imperialists, the Zionists and the monopolistic multinational corporations. On the basis of that experience, the non-use of force in international relations had become one of the cardinal principles of Iraqi foreign policy.

6. His delegation felt that the draft World Treaty submitted by the Soviet Union could be improved in terms of concepts and drafting through the collective efforts of the Special Committee. The document eventually produced by the Committee should contain provisions on procedural mechanisms designed to secure the maximum adherence of States in their international conduct to the principle of the non-use of force. On that point, the draft simply repeated in a general form the provisions of the Charter. The draft did not contain details on the notion of a "threat" to use force, although the purpose of the draft and the mandate of the Special Committee were to concretize the provisions of Article 2, paragraph 4, of the Charter, where the questions of the threat of force and the use of force were inseparably linked.

7. To avoid confusion and in conformity with Charter obligations, the draft should contain a specific reference to the inherent right of self-defence, and his delegation welcomed the readiness of the Soviet Union to accommodate that position. In addition, it was absolutely necessary to include a provision stating that nothing in the Treaty could prejudice the right of peoples subject to colonial and racist régimes and foreign occupation to use all the means at their disposal to exercise their inherent right to self-determination and independence and to liberate occupied territories. Article III of the draft might lead to unacceptable

(Mr. Al-Qaysi, Iraq)

results by enabling States not to be bound absolutely by the principle of the non-use of force, since no distinction was made as to the nature of earlier treaties and agreements concluded by States. That particular aspect of the draft needed to be ameliorated through careful and precise drafting in conformity with the language of the Charter.

8. Referring to the statement made by the United Kingdom representative at the 6th meeting, he warned that it would be counterproductive to introduce an atmosphere of cold war gimmickry and rhetoric. It was ironic that the representative of the United Kingdom should point his finger at other States in drawing attention to annexation and lack of objectivity, and it was to be hoped that the work of the Special Committee would not be permitted to proceed in the direction taken by that representative. On the basis of good faith and realism, the Committee could play a constructive role, enhancing the effectiveness of the principle of the non-use of force in the interests of peace and security. Negative attitudes regarding the utility of the endeavour were unjustified, since no concrete alternative to it was yet visible.

9. Mr. JACOVIDES (Cyprus) recalled that the principle prohibiting the threat or use of force in international relations and its corollary, that of the peaceful settlement of international disputes, were the very foundation of the United Nations system and were also firmly entrenched rules of international law from which no derogation was permitted.

10. More specifically, the principle of the non-use of force had acquired force of law through Article 2, paragraph 4, of the Charter, which in effect prohibited entirely any threat or use of armed force between independent States except in individual or collective self-defence under Article 51 of the Charter or in execution of collective measures taken under the Charter for the purpose of maintaining or restoring peace. Armed reprisals to obtain satisfaction for an injury and armed intervention as an instrument of national policy otherwise than for self-defence were illegal under the Charter. As for the exception based on Article 51, the prevalent view had been that it should be interpreted in the strict sense and that a State which, allegedly or in fact, found itself threatened by war preparations by another State should have immediate recourse to the Security Council rather than resort to measures of anticipatory self-defence.

11. The legal content of Article 2, paragraph 4, had been clarified and further elaborated upon over the years by a number of landmark resolutions and declarations and by numerous bilateral and multilateral treaties. There could thus be no doubt about its place in contemporary international law. Yet, 33 years after the adoption of the Charter, there had been more than 100 local wars and international armed conflicts in violation of the principle of the non-use of force. It was therefore obvious that something more was required if reality was to correspond to the law.

12. One way to achieve that would undoubtedly be to stress the need to apply the existing enforcement machinery by invoking the relevant provisions of the Charter,

(Mr. Jacovides, Cyprus)

in particular Chapter VII. While the veto was often cited as the cause of failure to apply that machinery, there were in fact many situations in which the veto could not be blamed and where unanimously adopted Security Council resolutions would, if applied through enforcement action, solve the problem. It had been said that what was lacking was the political will to apply existing machinery effectively, and his delegation would therefore welcome some evidence of that will on the part of Member States.

13. Another solution would be to draft the proposed world treaty on the basis of the corresponding provisions of the Charter. Such an instrument would not, and indeed could not, derogate from those provisions but might in fact refine them by taking into account the wealth of jurisprudence which had accumulated within and outside the United Nations in the past 33 years. The significant developments which had taken place in international life during that period had in fact profoundly altered international law and relations. For instance, the recognition of the legitimacy of the struggle of colonial and other dependent peoples for liberation was now firmly established, even though it was not expressly stated in the Charter, while the principle of domestic jurisprudence had been gradually eroded, particularly where racial discrimination and similar violations of human rights were involved.

14. The Charter could therefore be improved upon in the light of experience without prejudicing its fundamental validity. Moreover, if it became clear to the Committee that a new and generally acceptable legal instrument could be drafted which removed the ambiguities and loopholes that had given rise to abuses in the past, that would help to enhance the principle of the non-use of force and to remove any pretext for its violation.

15. With regard to the draft Treaty contained in document A/AC.193/L.3, he noted that it made no provision for the exceptions recognized under the Charter to which he had referred earlier. In that connexion, he first wished to reiterate that any reference to self-defence in an eventual treaty should be interpreted strictly in accordance with Article 51 of the Charter in order to exclude anticipatory self-defence or other abuses of the exception. Similarly, the exception regarding enforcement action taken by the Security Council should be highlighted. Reference should also be made to the emergent rule that liberation struggles against colonial domination, and international support for such struggles, should not be covered by the prohibition on the use of force.

16. Secondly, not only should there be a reference to the obligation not to assist or encourage any State to use force in violation of the provisions of the Treaty but reference should also be made to Article 2, paragraph 5, of the Charter, under which States were obliged to assist the United Nations in any action taken in accordance with the Charter and to refrain from assisting any State against which the United Nations was taking preventive or enforcement action. As the draft Treaty made no provision for machinery for enforcing the obligations imposed on contracting parties by the Treaty, a reference to the Charter system of collective security and enforcement machinery appeared to be essential.

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(Mr. Jacovides, Cyprus)

17. Thirdly, there should be an explicit provision in the Treaty upholding the rights of countries and peoples which were the victims of aggression and foreign occupation as a result of the use of force, condemning the acquisition of territory by force and rejecting faits accomplis.

18. Fourthly, with reference to article III of the draft Treaty and in view of the abuse of past treaty provisions purporting to confer the right of one State to intervene by force against another, his delegation believed that that article should be qualified by reference to Article 103 of the Charter and to the relevant provisions of the 1969 Vienna Convention on the Law of Treaties regarding treaties imposed by the use of force and those containing provisions in violation of peremptory norms of international law.

19. The above suggestions were offered in a constructive spirit and might be modified subsequently in the light of any explanations received from the Soviet and other delegations. His delegation welcomed the Soviet draft as a basis for the Committee's work.

20. With regard to the principle of the peaceful settlement of international disputes, he drew attention to the provisions of Article 2, paragraph 3, of the Charter. It was a matter of grave concern that the principle of peaceful settlement of disputes had likewise not been strictly adhered to, and every effort should be made to remedy that situation. The principle in question was, after all, a corollary to the principle of the non-use of force. Moreover, it could be seen from the current work of the Conference on the Law of the Sea that attempts were being made to adopt an effective and comprehensive system for the settlement of disputes by means of compulsory third party adjudication which would preclude the gross abuses of the use of force which had all too often occurred in other areas of international law. His delegation fervently hoped that such attempts to learn from past experience would be successful.

21. It had been pointed out that several of the countries represented on the Committee had had bitter experience of violation of the principle of the non-use of force. Cyprus had been one of the most obvious victims of such violations and the aggression, invasion and occupation which it had suffered, together with their consequences, had been fully documented in the United Nations and elsewhere. Countless resolutions had been adopted, calling for an end to that situation and for effective action in that regard by the Security Council. Yet, four years after the invasion, the invader had still not complied with those resolutions, the international community had still taken no effective remedial action and the Security Council had so far failed to implement the relevant provisions of the Charter in order to enforce such compliance. Was that a state of affairs which could be tolerated and regarded with complacency? Was it not fair to say that all was not well with the way in which the ostensibly watertight system of collective security under the Charter was being applied in practice? Would it be unreasonable to conclude that something more was required if that system was to be effective in dealing with Cyprus or any similar case?

22. It might be argued that all the elements for remedying the situation were present and that all that was lacking was the political will to apply them. His

(Mr. Jacovides, Cyprus)

delegation had done all it could to induce the Security Council to supply that missing element of political will. It was also convinced, in the light of its own experience and that of many other small countries which had suffered from the illegal use of force, that there was room for improvement both in remedying existing situations and in avoiding such illegalities in the future. The Charter was of course an admirable document and had been interpreted dynamically over the years by a number of legal instruments, but if the wealth of jurisprudence which had accumulated over the past 33 years could be distilled and incorporated into a binding treaty of universal application which closed existing loopholes and took into account contemporary developments and if such a treaty could be adopted with the participation of what was now a much broader international community, that would surely be a worthwhile undertaking.

23. That was why his delegation supported the Soviet initiative, while recognizing that such an instrument should not detract from the equivalent provisions of the Charter but rather should enhance their application. If such an instrument could be drafted, it would make a valuable contribution to the legal regulation of the use of force in international relations. If, on the other hand, it became clear that there were more pitfalls than had been anticipated, at least all States would be reminded of the cardinal importance which the world attached to the strict application of the existing prohibition on the use of force and to the related principles of non-intervention, sovereign equality and respect for the territorial integrity and political independence of all States, large or small, as well as to the basic objective of general and complete disarmament.

24. Mr. HOUNGAVOU (Benin) pledged his delegation's full co-operation in drafting a treaty on the non-use of force in international relations. His country had a particular interest in the adoption of such a treaty, for in 1977 it had itself been a victim of the illegal use of force and it had been under the constant threat of force ever since.

25. The 1977 raid on Cotonou by imperialist mercenaries had forced his country to recognize the aggressive nature of imperialism and its refusal to accept defeat. Modern imperialism knew no bounds and it constantly violated the territorial integrity and independence of States and the human rights of their citizens. The Charter contained provisions which, if applied, especially by the imperialist Powers, would guarantee international peace and security and ensure that small, defenceless countries were free from exploitation and foreign domination. Imperialism, however, was determined to perpetuate the international status quo and to oppose by all possible means the struggle of peoples for liberation and political and economic independence.

26. Thus, in southern Africa, imperialism continued to protect the racist régimes in order to maintain its domination and went so far as to violate sanctions against Southern Rhodesia and to provide the southern African régimes with weapons to massacre the African people. Indeed, imperialism was to be found behind every violation of international peace and security. The United Nations must therefore redouble its efforts to force the imperialist Powers to respect the principle of the non-use of force in international relations.

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(Mr. Houngavou, Benin)

27. The draft Treaty contained in document A/AC.193/L.3 represented a major effort to conceptualize the principles laid down in the Charter. His delegation supported the terms of the draft and would do all it could to help to produce a treaty which would finally put an end to international mercenary intervention. The use of international mercenaries was an age-old weapon which had been revived recently by the neo-colonialist and imperialist Powers in order to oppress small nations. In fact, such mercenaries were an outward manifestation of the decline of international capitalism, which used them to perpetrate violence on a massive scale. As such, they and their backers should be given no quarter. The tide of economic and political development of peoples would not be stemmed, and his country and others like it would oppose any effort either to destabilize their peaceful struggle against the political and economic status quo or to perpetuate the racist régimes in southern Africa.

28. Violation of the principle of the non-use of force was a constant feature of contemporary international life, and his Government would continue to denounce such imperialist manoeuvres and all impediments to the work of the Committee.

The meeting rose at noon.

UNITED NATIONS

GENERAL ASSEMBLY

Distr.
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A/AC.193/SR.8
1 September 1978

ORIGINAL: ENGLISH

SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS

SUMMARY RECORD OF THE 8th MEETING

Held at Headquarters, New York,
on Wednesday, 30 August 1978, at 10.30 a.m.

Chairman: Mr. CUEVAS CANCINO (Mexico)

CONTENTS

Consideration, pursuant to paragraph 2 of General Assembly resolution 32/150, of proposals and suggestions submitted by States (continued)

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The meeting was called to order at 11 a.m.

CONSIDERATION, PURSUANT TO PARAGRAPH 2 OF GENERAL ASSEMBLY RESOLUTION 32/150, OF PROPOSALS AND SUGGESTIONS SUBMITTED BY STATES (continued) (A/AC.193/L.3)

1. Mr. ZACHMANN (Observer for the German Democratic Republic) said that his country had from the very outset supported the Soviet proposal to conclude a world treaty on the non-use of force and had actively worked for its implementation. Given the developments that had taken place in international relations, the conclusion of such a treaty had become a matter of urgency. The draft World Treaty submitted by the Soviet Union (A/AC.193/L.3) established a close relationship between the non-use of force and the cessation of the arms race, particularly in respect of nuclear weapons and other weapons of mass destruction. The draft therefore reflected the wishes of the overwhelming majority of Member States as reaffirmed at the tenth special session of the General Assembly (A/RES/S-10/2, paras. 12 and 26). The final goal of the Soviet initiative was of course to end war between States and to achieve general and complete disarmament.

2. The majority of Member States had shown a clear interest in the conclusion of a world treaty, and the statements made on the draft treaty in the Special Committee had been mainly positive. That was hardly surprising, since, despite the prohibition on the use of force laid down in the Charter of the United Nations, 120 wars and regional conflicts had broken out since 1945. There was therefore an urgent need to codify the principle of the prohibition of force, and that could best be achieved by concluding a binding world treaty based on the Soviet draft.

3. The Soviet proposal was based on the explicit obligation of Member States to promote the codification and progressive development of international law. It had been argued that the provisions of Article 2, paragraph 4, of the Charter of the United Nations would suffice and that a world treaty would not be necessary. However, the history of international relations showed that principles of international law could be enhanced by the conclusion of international treaties and the establishment of binding juridical norms. In addition, a world treaty on the non-use of force would promote political détente and further the development of international relations on the basis of peaceful coexistence, for which there was no reasonable alternative. It would also help to eliminate colonial oppression and neo-colonialist practices and to realize the right of every people to self-determination, economic independence and full sovereignty over its natural resources. Finally, it would promote peaceful co-operation among peoples, thus stimulating economic, social, scientific and technical progress. The recent joint space mission carried out by the German Democratic Republic and the Soviet Union provided an excellent example of such co-operation.

4. Mr. FERRARI-BRAVO (Italy) said that dealing with the inextricably related principles of the non-use of force and the peaceful settlement of international disputes meant touching upon the very core of international law as embodied in the Charter. The solution of virtually all issues relating to international relations depended, to a large extent, upon the approach adopted towards those two principles

(Mr. Ferrari-Bravo, Italy)

The tremendous legal and political impact of the questions being dealt with called for a patient quest for solutions based on a general consensus.

5. The available documentation regarding the opinions of Member States on the issues in question was not very extensive, and the observations received so far in pursuance of General Assembly resolution 31/9 were either general in character or related only to the non-use of force and not to the peaceful settlement of disputes, which was the other issue entrusted to the Special Committee for concurrent study. It was of the utmost importance that discussions should proceed along both tracks from the beginning. States should therefore attempt to establish their views on the question of the peaceful settlement of disputes and on an approach to that issue which would encompass the problem of the non-use of force.

6. The issues under consideration had already been examined at the United Nations in a number of contexts, both broad and narrow in scope. Recent instances were the discussion by the Special Committee on Peace-keeping Operations of the effectiveness of United Nations peace-keeping operations, which was the principal guarantee against recourse to force by individual States; the discussion of the peaceful settlement of disputes initiated at the latest session of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, and the proposals submitted at the special session of the General Assembly devoted to disarmament, one of which was document A/S-10/AC.1/26, introduced by 15 delegations, including Italy.

7. His delegation wished to pay a sincere tribute to the Soviet delegation for its initiative, the basic purpose of which should be acceptable to all. However, the question was rather whether the method suggested by the Soviet Union for ensuring the enhancement of the principle of the non-use of force was the one best suited to achieve that purpose. The Soviet delegation proposed the adoption of a brief treaty text restating and affirming the principle of the non-use of force, but precedent did not speak favourably of the efficacy of such a technique, as demonstrated in the case of the briefly worded Paris Pact of 1928. The lesson of that experience was that a peace-keeping system could not be reinforced through mere repetition of existing international commitments but must be completed through the careful construction of appropriate machinery for the rapid enforcement of existing obligations. What was needed was not simply to reiterate the obligations listed in Article 2, paragraph 4, of the Charter but to strengthen the powers of the Security Council by implementing to the fullest extent all the provisions of Chapter VII and, at the same time, to develop the system for the peaceful settlement of disputes outlined in Chapter VI in order to prevent the aggravation of international crises.

8. The obligation inherent in Article 2, paragraph 4, of the Charter was clear and unchallenged, and even those States accused of violating it had never denied its permanent and unconditional validity but had, rather, tried to justify their recourse to force by referring to the right to self-defence provided for in Article 51. A mere reaffirmation of an existing obligation would therefore give the false impression that time had eroded that obligation. If, on the other hand, the

(Mr. Ferrari-Bravo, Italy)

obligation set forth in Article 2, paragraph 4, were to be not only reaffirmed but also reformulated, as in the proposed draft, there would be a risk of differing interpretations of the two formulas, which would open the way to new problems. The provisions of Article 103 of the Charter would be helpful in the event of a clear conflict between the wording of a treaty and that of the Charter, but the question became more subtle when the conflict was not obvious, as in the case of the proposed draft.

9. If the wording of the finally adopted treaty text was not identical with the existing Charter provision, it could be argued that, by ratifying such a treaty, Member States would be agreeing upon an interpretation of Article 2, paragraph 4, which fixed, once and for all, the meaning of the principle of non-recourse to force. Such action divesting the Security Council of its powers should be avoided. The adoption of a universal treaty, the sole aim of which would be to restate the principle embodied in Article 2, paragraph 4, of the Charter, would entail the risk of acceptance of a disguised amendment to the Charter itself. In principle, Italy did not oppose the idea of amending the Charter in the case of out-dated or counterproductive provisions, but its basic principles should be kept untouched and the Committee should be alert to the risk of potentially harmful changes.

10. Those arguments could hardly be countered by maintaining that some restatements of the principle of the non-use of force had already been made in the context of various General Assembly resolutions or in texts such as the Final Act of the Conference on Security and Co-operation in Europe. Although those texts reformulated and amplified the ideas contained in Article 2, paragraph 4, of the Charter, the definition of aggression had, for example, been embodied in a resolution of the General Assembly, i.e., in a "recommendation" rather than an amendment to the Charter or a separate treaty, precisely in order to preserve the Security Council's freedom of action. If the Soviet Union had submitted the draft of a solemn declaration of the General Assembly, it would have been easier to accept a text along the lines of the proposed draft. However, the fact that the format chosen was that of a treaty called for a much more cautious attitude. The best way to serve the purposes sought in the proposal was to draft a General Assembly resolution rather than a treaty.

11. With regard to the draft World Treaty submitted by the Soviet Union, his delegation had major reservations concerning articles I and III. Article I did not take into account the possibility that a State might use force against another State by aiding subversion from within the territory of the latter, nor did it state clearly that the exercise of the right of self-defence, which was perfectly legal under Article 51 of the United Nations Charter, did not constitute a case of illicit recourse to force. Article III was very obscure, and his delegation was not clear as to the real significance of the reservation concerning treaties and agreements concluded earlier. The Soviet draft was also extremely vague with regard to the question of the peaceful settlement of disputes. The listing of peaceful means for the settlement of disputes in article II of the draft was incomplete in that it did not include all those listed in Article 33 of the United Nations Charter. The draft concentrated almost exclusively on the problem of the non-use of force, and such an

(Mr. Ferrari-Bravo, Italy)

approach was inadequate. Paragraphs 3 and 4 of Article 2 of the Charter were inextricably linked, and any attempt to emphasize one at the expense of the other would give rise to serious imbalances in the system established by the Charter. The fact that the United Nations had not been able to establish an efficient system for the peaceful settlement of disputes constituted a major short-coming of the Organization. It also impaired the ability of the Security Council to discharge its primary function, namely to maintain international peace and security, and individual States were tempted to use force in order to resolve disputes. It was therefore vital to make progress with regard to both the principle of the non-use of force and the peaceful settlement of disputes. With respect to the latter, if the Committee were to confine itself to the drafting of a General Assembly declaration that would not create new legal commitments, it might be possible to rely on a simple reaffirmation of existing Charter provisions without necessarily elaborating further on those provisions. However, if the Committee decided to draft an international treaty giving rise to legally binding commitments, the establishment of an efficient system to guarantee respect for such commitments was essential, and that could be achieved only through the full development of the concept of the peaceful settlement of disputes.

12. Precedents for such an approach could be found in recent treaties on the codification of international law and in the Final Act of the Conference on Security and Co-operation in Europe. The question of the peaceful settlement of disputes had been discussed by the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, and proposals put to that Committee should be taken into consideration. New and interesting ideas related to the prevention of international crises were to be found in documents of the special session of the General Assembly devoted to disarmament, and, as far as the peaceful settlement of disputes was concerned, his delegation reaffirmed its strong support for all the means of settlement listed in Article 33 of the United Nations Charter. Of course, much could be done to enhance the effectiveness of those means, and in particular it might be possible to establish a system of impartial fact-finding procedures that would help parties to a dispute to settle their differences through negotiation. Such conciliation procedures might require recourse to international bodies capable of ensuring the maximum degree of independence and impartiality. In that connexion, it might also be possible to strengthen the consultative and judicial functions of the International Court of Justice, which, according to Article 92 of the United Nations Charter, was the principal judicial organ of the United Nations. His delegation had made specific proposals in that respect in the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization.

The meeting rose at 11.45 a.m.

UNITED NATIONS

GENERAL ASSEMBLY

Distr.
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A/AC.193/SR.9
5 September 1978

ORIGINAL: ENGLISH

SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS

SUMMARY RECORD OF THE 9th MEETING

Held at Headquarters, New York,
on Thursday, 31 August 1978, at 10.30 a.m.

Chairman: Mr. CUEVAS CANCINO (Mexico)

CONTENTS

Consideration, pursuant to paragraph 2 of General Assembly resolution 32/150, of proposals and suggestions submitted by States (continued)

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The meeting was called to order at 11 a.m.

CONSIDERATION, PURSUANT TO PARAGRAPH 2 OF GENERAL ASSEMBLY RESOLUTION 32/150, OF PROPOSALS AND SUGGESTIONS SUBMITTED BY STATES (continued) (A/AC.193/L.3)

1. Mr. ALBORNOZ (Ecuador) said that if the Special Committee was successful in defining various types of situations in a more precise manner and in formulating recommendations to reinforce the machinery for implementing the system provided for in Article 2 of the Charter, it would have fulfilled its mandate, since that article requested Member States both to refrain from the use of force and to settle their disputes by peaceful means.

2. If the concepts embodied in those paragraphs were not given effect, there was no possibility of any form of coexistence which would permit States to develop freely without outside interference. It was of the utmost importance that the peaceful settlement of disputes should be made obligatory on a global basis, not only as a responsibility of the parties to a dispute but as a duty of the international community, so as to make disarmament possible and effective and thus reduce the enormous cost of the arms race, which had spread to include even the poorest countries of the developing world.

3. The Minister for Foreign Affairs of Ecuador had stated at the thirty-second session of the General Assembly that, since peace and security were indivisible, disputes between nations were a legitimate cause of universal concern. Addressing the tenth special session of the Assembly, he had said that it should be considered a duty of States to adopt, together with universal disarmament measures, such regional measures as might be facilitated by reduced tensions and the peaceful settlement of disputes. Noting that Ecuador had taken an active part in drafting the Treaty of Tlatelolco, which provided for the denuclearization of Latin America, he expressed the hope that that region would ultimately become a genuine zone of peace in which conventional weapons and all forms of foreign intervention would also be prohibited.

4. The Special Committee should examine the various aspects of the use of force which must be prohibited in international relations. With the sole exception of the right of self-defence set forth in Article 51 of the Charter, the use of force could be legally sanctioned only by the international community. It was also important to analyse and define even the right of self-defence, which should not be invoked to justify the astronomical costs of the arms race and to reject such positive proposals as that calling for a small percentage of the money currently spent on armaments to be used to improve the well-being of the masses of the world. Safeguards were likewise necessary in order to prevent self-defence from being invoked in cases of unfounded claims of foreign aggression.

5. The Committee must define both the open and the disguised ways in which force was used. Economic aggression, for example, could take the form of refusal to fulfil obligations to promote development, the erection of trade barriers by wealthy countries, failure to expedite the transfer of technology, the control of prices and distribution by powerful transnational forces, and the promotion of

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(Mr. Albornoz, Ecuador)

instability through currency fluctuations and imported inflation. Other forms of the use of force were ideological infiltration and economic or political sabotage.

6. Although reiteration of the principles of the Charter was proof of their vitality, it was also true that the world had changed since the signing of the Charter and that new problems had arisen. Even without amending the Charter, much could be accomplished through more precise interpretations that took account of new concerns and of the desire of Member States for peace and security. The Committee must formulate specific measures for strengthening the machinery for the peaceful settlement of disputes provided for in Chapter VI of the Charter.

7. A number of recent international instruments upholding the principle of the non-use of force in international relations represented significant steps in that direction. He noted, in particular, the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations (General Assembly resolution 2625 (XXV)), General Assembly resolution 2936 (XXVII) on the non-use of force in international relations and permanent prohibition of the use of nuclear weapons, the definition of aggression contained in resolution 3314 (XXIX) and the Final Act of the Conference on Security and Co-operation in Europe. Those texts had not amended the Charter but had, rather, cited its provisions in the light of developments over the past three decades. Taking as a basis the various submissions by Governments, including the draft Treaty submitted by the Soviet Union, the Committee must strive for unanimous agreement on a document which represented a real step forward and not a mere statement of aspirations. The ultimate form of the document was not important, provided that it reflected the unanimous determination of all countries to fulfil commitments which had already been entered into and now called for reaffirmation.

8. Mr. SALUP (Cuba) recalled that it was his country's policy to work to secure a just and lasting peace for all peoples in accordance with the Leninist principles of peaceful coexistence among countries with different social systems. War did not and could not resolve international disputes and, with the exception of wars of independence and national liberation, had always been imposed upon peoples by those who practised colonialism, neo-colonialism and imperialism. It was because peace was universal and indivisible and must benefit all countries and peoples that his Government had always striven to strengthen international peace and security.

9. His delegation had been an active participant in the special session of the General Assembly devoted to disarmament and had joined in all international efforts to achieve general and complete disarmament and to strengthen international détente. In that connexion, it welcomed the achievements of the Conference on Security and Co-operation in Europe, which must be consolidated and extended to every continent. At no time in history had the struggle for peace been so necessary, and at no time had weapons acquired such destructive powers and had the risk of man's annihilation been so great. His country was struggling, therefore, for an end to the arms race, for general and complete disarmament and for a ban on the use of nuclear weapons and other means of mass destruction. It was also working to help create zones of peace in various parts of the world.

(Mr. Salup, Cuba)

10. The Conference of Foreign Ministers of Non-Aligned Countries, meeting in Belgrade in July 1978, had expressed particular concern at the reversals in the process of détente and at the dangerous tendency of the imperialist countries to reactivate certain cold war attitudes. The non-aligned countries had always worked for a relaxation of international tension and had supported all efforts to resolve conflicts by negotiation. At the Belgrade Conference, they had reiterated that one of their fundamental objectives was to eliminate the use of force and pressure in international relations. They had added that, in order to prevent further tension, détente must become a positive factor aimed at achieving a new and more equitable system of international relations and that it must be extended to all regions of the world and all spheres of international life. That could be achieved only if the Charter was applied strictly and if all countries participated on an equal footing in the resolution of key international issues.

11. At the same conference, his country had maintained that conflicts between non-aligned countries, and among under-developed countries in general, must be resolved by negotiation and without recourse to the use of force and that such countries must establish closer co-operation among themselves and, above all, avoid playing into the hands of imperialism. It had also condemned all imperialist intervention in the internal affairs of any State, in particular the use of force and economic aggression.

12. The use or threat of force had always been present in international relations. Neither the principle of the non-use of force nor its incorporation into the Charter had prevented force from being used in international relations, and his country had wondered whether more stringent measures were therefore needed to enforce that principle. That was why it had voted for General Assembly resolution 32/150 and had always been in favour of the creation of the present Committee, believing that a world treaty on the non-use of force would enhance the effectiveness of the Charter. His delegation felt that additional guarantees were needed, in accordance with the various precedents whereby United Nations principles had been incorporated into treaties governing international relations. It therefore supported the Soviet initiative and fully endorsed the contents of document A/AC.193/L.3, which provided an excellent basis for the Committee's work. It believed firmly that a treaty on the non-use of force would strengthen the system of collective security established by the Charter and would help to ensure lasting peace and security throughout the world and to guarantee the political independence and territorial integrity of all States. Such a treaty would guide countries in their efforts to ensure that international disputes were resolved by negotiation and without recourse to the threat or use of force. Moreover, it would have a positive effect on disarmament and on efforts to end the arms race, thus ensuring that the enormous sums currently spent on the production of arms were used for the benefit of mankind and to finance the economic development of peoples, in particular the under-developed countries.

13. It was vital that the final text of such a treaty should not impair the legitimate right of peoples under colonial domination, racist régimes and foreign domination to resort to all forms of struggle, including armed struggle, in order to gain their national liberation and independence.

14. Mr. BLOMBERG (Finland) recalled that the principle of the non-use of force was the corner-stone of international peace and security and that the emergence of détente reflected a recognition of that fact. Any strengthening of that principle would therefore contribute to détente, be it at the bilateral, regional or global level.

15. As a small country with relatively few weapons, Finland relied primarily on political means for its national security, maintaining a policy of neutrality and endeavouring to enjoy friendly relations with all States. It therefore had a vested interest in the creation of a more rational and peaceful world order, which would, of course, exclude the threat or use of force as an instrument of national policy. Any steps which were taken towards achieving that goal must be evaluated in the light of the practical and immediate effects which they would have on promoting international peace and security. The process highlighted by the Conference on Security and Co-operation in Europe was a tangible example of such an approach.

16. Of course, any pledge to refrain from the use of force would have only limited effect unless it was universally recognized and accompanied by a commitment to settle disputes by peaceful means alone. The legal means of preventing the use of force should therefore be accompanied by an improvement in means of co-operation and in procedures for the peaceful settlement of disputes. The concept of peaceful settlement of disputes was well entrenched in the system embodied in the Charter; yet, it was still relatively under-developed. The Committee would therefore do well to draw, inter alia, on the work of the forthcoming meeting of participants in the Conference on Security and Co-operation in Europe, to be held in Montreux, which would examine and elaborate a generally acceptable method for the peaceful settlement of disputes in order to complement existing methods.

17. The use of force was often seen as the only means of achieving justified and internationally recognized objectives, especially in regions where national self-determination had still not been achieved. The United Nations must therefore be vigilant and take positive steps to create conditions whereby peaceful means of settling disputes might supersede the use of force. Of course, if the instrumentalities of force were themselves reduced, that would enhance measures to strengthen the principle of the non-use of force: arms control and disarmament were important and would ultimately be the most effective means of reducing the use of force. At the same time, economic interests, in particular the distribution of national resources, now played an increasingly significant role in many international disputes. Accordingly, the establishment of a world order which was economically more equitable would help to increase the security of all countries. International co-operation was therefore increasingly needed in order to overcome difficulties in implementing a new international economic order.

18. His country had always supported all international efforts to remove the threat or use of force in international relations, and it realized that such efforts must be conducted by various means in order to tackle situations of conflict and to remove their underlying causes. It therefore welcomed the Soviet proposal for an international instrument prohibiting the use of force; such an instrument would provide a renewed commitment to the non-use of force in international relations, in accordance with the spirit of the Charter.

The meeting rose at 11.40 a.m.

UNITED NATIONS

GENERAL ASSEMBLY

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A/AC.193/SR.10
7 September 1978

ORIGINAL: ENGLISH

SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS

SUMMARY RECORD OF THE 10th MEETING

Held at Headquarters, New York,
on Tuesday, 5 September 1978, at 10.30 a.m.

Chairman: Mr. CUEVAS CANCINO (Mexico)

CONTENTS

Consideration, pursuant to paragraph 2 of General Assembly resolution 32/150, of proposals and suggestions submitted by States (continued)

Organization of work

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The meeting was called to order at 11 a.m.

CONSIDERATION, PURSUANT TO PARAGRAPH 2 OF GENERAL ASSEMBLY RESOLUTION 32/150, OF PROPOSALS AND SUGGESTIONS SUBMITTED BY STATES (continued) (A/AC.193/L.3)

1. Mr. ROSENSTOCK (United States of America) said that the subject-matter with which the Committee was dealing lay at the core of the work of the United Nations. The central purpose of the United Nations had been and must continue to be to avoid another world war. Although there had not been a third world war there had been much violence, and States Members were bound by the Charter to seek to remedy that situation. In so doing, they must consider ways and means of enhancing the effectiveness of a norm the existence of which must be taken as a given.

2. No amount of misquotation or partial quotations from the Committee's mandate could narrow its freedom of choice, and, ultimately, the Assembly's freedom of choice, with respect to those ways and means. The Committee could choose to elaborate a treaty or, if that did not seem the most prudent course to follow, it might devote its efforts to such other recommendations as it deemed appropriate. It was not required to pursue any one means of enhancing the effectiveness of the prohibition of the threat or use of force. It was required to consider all reasonable approaches to that end and it should not focus too early on one approach to the exclusion of others.

3. His delegation believed that drafting a treaty was a very wrong way to go about the matter. The United Nations Charter, in particular Article 2, paragraph 4, already stated the norm with admirable clarity and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States confirmed both the clarity and the scope of that provision. If the provisions of a treaty on the non-use of force were identical to those of the Charter, that would be bad for many reasons: for one thing, the treaty might not have the same parties as the Charter, which could cause confusion; for another, a repetition of the injunctions of the Charter in a second treaty instrument would cast doubt on the obligation existing under the Charter by making it appear incomplete. If, on the other hand, the Committee elaborated a treaty which departed from the language of the Charter, that would only compound the confusion. Even States that were parties to both would be tempted to look for loopholes.

4. In the Soviet draft treaty in document A/AC.193/L.3 there were many curious departures from the Charter. For instance, language such as that in article III of the draft, relating to treaties concluded by States, could hardly fail, at the present time, to raise concern about doctrines of limited sovereignty; it was to be hoped that a reference to treaties between members was not an attempt to use treaties obtained by the crudest forms of duress to enhance those tarnished doctrines. Was it possible that after 10 years some would still suggest that having a similar economic system would legitimize fraternal assistance in the form of

(Mr. Rosenstock, United States)

sending hundreds of thousands of troops to another country without invitation? When one saw provisions such as those contained in article III of the draft, one could not but recognize the dangers involved in departing from the language of the Charter. Another example was the specific mention in article I of the Soviet text of certain types of weapons, that could weaken the all-inclusive nature of the prohibition contained in Article 2, paragraph 4, of the Charter.

5. The woeful inadequacies of the Soviet draft in terms of omissions were immediately apparent when it was compared with either the Declaration on Friendly Relations and Co-operation among States or the Final Act of the Helsinki Conference, which latter stated that no consideration might be invoked to warrant resort to the threat or use of force.

6. With regard to other serious defects in the draft, he said that statements made by Australia and Kuwait in the Sixth Committee were perhaps of particular relevance. The representative of India had done well to warn the Committee of the dangers of drafting a document which would expand the permissible uses of force: the Committee had already heard statements which seemed directed more towards creating exceptions to the prohibition than towards enhancing its effectiveness.

7. A treaty on the non-use of force would, moreover, mark a major legal step backwards for mankind. The failure of the League of Nations and the proven sterility of the Kellogg-Briand Pact had shown that proclamations or treaties on the use of force and the outlawing of war were not in themselves effective. The lesson learned from the Second World War was that the best hope lay in a comprehensive collective security system. In 1945 the prohibition of the threat or use of force had been established as one integral part of an over-all system which also provided for an obligation to settle disputes by peaceful means and a collective security system to deal with situations in which conflict was threatened or had erupted.

8. However, while drafting a treaty was a very bad idea there were other ways to enhance effectiveness of the principle of non-use of force. In the first place, States Members could and must redouble their efforts to live up to their existing obligations and must not obscure those obligations by devising new instruments which would do more harm than good. Rather, they must make the existing language of the Charter an integral part of the national policies of every State.

9. Secondly, there were actions which could be taken to encourage States to abide by the obligations set forth in the Charter. In that connexion it should be noted that the various eruptions of violence that had taken place since 1945 had not been due to any lack of clarity as to the nature or scope of the prohibition of the use of force. For the most part, violence had erupted because a dispute had been left to fester for so long that it finally could not be contained. In other cases, small States might have believed that their existence was threatened and might have lacked sufficient faith in the collective security system in general and the Security Council in particular to stake their existence on them, with the result that they

(Mr. Rosenstock, United States)

had responded to intolerable threats of the use of force by pre-emptive strikes. It was not necessary to justify any such actions as legal in order to recognize that the pressures on States in such circumstances might become irresistible. Since it was likely that there would always be disputes, survival depended on how disputes were handled. Ways must be found to encourage States to honour their obligation under Article 2, paragraph 3, of the Charter to settle disputes peacefully. The international community must be prepared to urge peaceful settlement of disputes and, conversely, to bring the pressure of political opprobrium to bear on States that refused to settle disputes. If disputes were not settled expeditiously by negotiation, the community must press the parties to seek third-party settlement. When States sought third-party settlement they should be praised. When States that had had recourse to third-party settlement honoured the results of that settlement, they should be praised. For instance, his delegation never tired of praising Mexico for its attitude towards United Nations peace-keeping costs, and there were other States which were similarly deserving of praise. But if those which submitted matters to third-party settlement and abided by the results were to be praised, commenting adversely on those which did not do so should also be considered. It was necessary to seek both negative and positive reinforcement of the implementation of the obligation to settle disputes by peaceful means.

10. Since many States in the world were perhaps not yet ready to have vital matters decided by an international court, it was necessary to provide for judicial settlement in as many multilateral and bilateral treaties as possible, and the Committee should consider a general recommendation to that end. In those cases where provision for judicial settlement was not possible, provision should at least be made for arbitration. Learning to settle the less critical issues by third-party methods would build confidence in the system and serve as a basis for eventual routine settlement of all difficult problems by adjudication.

11. Fact-finding was yet another aspect of dispute settlement that should be examined. Perhaps Member States could usefully agree to encourage the Secretary-General to make the fullest use of his fact-finding, reporting and other Charter powers. Perhaps all Members could recognize that the unanimity principle in the Security Council related to recommendations but that no chain of events should ever bar the Council from ascertaining the facts by whatever means it saw fit.

12. There was much that could and must be done in the field of peaceful settlement of disputes. Paragraph 3 of Article 2 of the Charter was far more in need of study than paragraph 4, and ways and means of facilitating its operation must be considered. A further possible step, in addition to those he had already suggested, might be a more probing analysis of some of the modern academic writing on conflict resolution.

13. At the least, it would seem useful to explore ways and means of routinely involving the Security Council in sensitive situations that did not seem to be approaching a solution. Perhaps Members should all take their community responsibilities more to heart and be willing to bring potentially dangerous situations to the Council even if the parties themselves did not do so. In Articles 35 and 99 respectively, the Charter clearly gave all Members and the Secretary-General the right to bring matters to the attention of the Council.

(Mr. Rosenstock, United States)

14. Although the United Nations peace-keeping system had certainly not lived up to the highest hopes of the founding fathers, it must be recognized that the Organization had demonstrated very extensive capacities in the area of peace-keeping by interposition. Since 1973 the situation had improved dramatically with regard to interposition operations but if Members were serious about the non-use of force they must support those operations, not merely by accepting their legally binding financial obligations but also by giving those operations all the political and moral co-operation and support possible.

15. Members must seek to build on the United Nations impressive performance in those areas and consider ways and means of strengthening and institutionalizing its capacity to carry out such operations. They should examine such questions as exchanges of information among participants in past operations, training programmes and the earmarking of troops for United Nations service. In that connexion, they would do well to study the experience and record of the Nordic nations in United Nations peace-keeping and in peace-keeping preparedness.

16. The ground that the Committee was covering in connexion with the question of the non-use of force was substantially the same as that being covered by the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization. Not only was it incredibly inefficient to have two committees working on the same subject-matter, but there was also the very considerable risk of their producing recommendations which would not be in complete harmony. It should be noted, moreover, that many delegations, including his own, were hard put to staff, much less prepare for, the number of meetings held each year. His delegation consequently suggested that some thought should be given to that problem of duplication. One possibility would be to suggest to the Sixth Committee that it should remove peaceful settlement and international peace and security from the agenda of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, or at least that it should ask that those questions be treated in the same manner in which that Committee had tacitly agreed to treat Economic and Social Council issues - namely, that consideration of those issues which were being considered elsewhere should be deferred. Alternatively, the Sixth Committee might be informed that the overlap between the two Special Committees was so extensive that the mandate of the Committee on Enhancing the Effectiveness of the Principle of Non-use of Force should be combined with the mandate of the Special Committee on the Charter so that the same issues might be examined in the same place in greater depth and with more coherence.

17. Mr. SY (Senegal) recalled that the question of the conclusion of a world treaty on the non-use of force in international relations had been raised for the first time by the Non-Aligned Movement at its summit conference at Lusaka in September 1970. In proposing the inclusion of that question in the agenda of the thirty-first session of the General Assembly and in submitting a draft treaty, the Soviet Union had taken up the same idea, giving it a more specific form.

18. For both the non-aligned countries and the Soviet Union, the main purpose of a world treaty on the non-use of force in international relations would be to create

(Mr. Sy, Senegal)

the climate of confidence necessary for achieving progress in disarmament and in the strengthening of international security. However, that would give rise to substantial problems because the raison d'être of the Charter itself was to prevent recourse to force in international relations. The question of the relationship between the Charter and such a treaty was therefore of the utmost importance. Whatever its imperfections, the Charter laid down principles for the establishment of peaceful relations among States and, moreover, enjoyed virtually unanimous support. If the proposed treaty was to have broad support, it would have to aim at remedying the defects and loop-holes that had encouraged violation of the principles of the Charter so that it would not be a mere repetition of the latter.

19. Consideration of that question at the thirty-first and thirty-second sessions of the General Assembly had shown that there was considerable support for the elaboration of a world treaty. Some delegations had stated that a world treaty was not the best instrument for ensuring non-use of force and that a treaty could weaken the authority of the Charter. It would therefore be preferable, in their opinion, to concentrate on specific measures to lessen international tension and promote co-operation.

20. However, for most of the countries of the third world, which had often been victims of the use of force, it was urgent to promote the rule of law in international relations and the scrupulous observance by Member States of their obligations pursuant to the Charter. It was therefore necessary to continue and to perfect the various forms of action undertaken in the past with a view to developing and elaborating on the principles of the Charter.

21. Moreover, the Charter had not been able to put a stop to the use of force in international relations and it had not been very effective in preventing the emergence of new, more subtle forms of the use of force, which used certain principles of the Charter as a front. Some countries had taken advantage of the general character of the prohibition set forth under Article 2, paragraph 4, of the Charter to justify their imperialist, colonialist, neo-colonialist and racist manoeuvres. The Soviet initiative should be encouraged and supported because it aimed at remedying the loop-holes in the Charter.

22. At the thirty-first and thirty-second sessions of the General Assembly, a number of non-aligned countries had raised the following five points with regard to the conclusion of a world treaty on the non-use of force: the notion of force and the use of force should be defined adequately so as to cover, in addition to military force, subversion and economic coercion; the treaty must be accompanied by positive commitments with regard to disarmament, particularly nuclear disarmament; the treaty must explicitly reaffirm the legitimacy of the struggle of peoples against colonialism, imperialism, racism and expansionism; the treaty must include provisions for its implementation; it must have the support of the permanent members of the Security Council, which were also nuclear Powers.

23. His delegation naturally endorsed those points, but it wished to make a few further remarks with regard to the draft treaty contained in document A/AC.193/L.3.

(Mr. Sy, Senegal)

The draft treaty was based essentially on two principles: non-use of force in international relations and peaceful settlement of disputes. The choice of those two principles was an indication of an incomplete analysis of all the causes of the continuance of the use of force. The draft treaty did not mention certain principles that were closely linked with the principle of non-use of force. Those principles included the following: the duty of States not to intervene in matters within the domestic jurisdiction of any other State, in accordance with the Charter; the principle of equal rights, self-determination of peoples; and the principle that States should fulfil in good faith the obligations assumed by them in accordance with the Charter.

24. The Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States stipulated that the five points stressed by the non-aligned countries were interrelated; they could not be applied or interpreted separately. The draft treaty should therefore be based on those five principles.

25. Article I of the draft treaty contained a restrictive definition of the use of force, which meant that it totally ignored the disguised forms of the use of force, such as subversion, the use of mercenaries, techniques for destabilizing foreign Governments and economic pressure. Since such forms were by far the most frequent in international relations, ignoring them in such a treaty would be tantamount to sanctioning them.

26. The last paragraph of article I seemed quite positive, since it could form the basis of a prohibition of the use of nuclear weapons, particularly against those States that did not possess them.

27. Article I could be strengthened by the inclusion of the prohibitions set forth in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in relation to the use of force to violate the boundaries of another State, forcible action which deprived peoples of their right to self-determination and freedom and independence, the organization of irregular forces, including mercenaries, for incursion into the territory of another State, the organization of acts of civil strife or terrorist acts in another State, and military occupation of the territory of another State.

28. Moreover, in order to make clearer the relationship of the draft treaty to the Charter, the draft should stipulate that, in the event of a conflict between obligations arising from international agreements and the obligations of Member States under the Charter, the latter should prevail. It should also state that its provisions could not be interpreted as adversely affecting the powers of the Security Council under the Charter.

29. Besides drafting a treaty, the Committee should consider the elaboration of recommendations concerning other specific measures to enhance the effectiveness of the provisions of the Charter. The most perfect mechanism for the peaceful settlement of disputes was doomed to failure if the requisite political will on the

(Mr. Sy, Senegal)

part of the States concerned was lacking. The principal cause of the failure of existing mechanisms for the peaceful settlement of disputes, in particular those of the Security Council, lay in disagreements between certain Member States.

30. Moreover, the mechanisms for the peaceful settlement of disputes should be based on a strict interpretation of the non-use of force which would rule out indirect or disguised forms of force. A sufficiently detailed, unequivocal treaty on the non-use of force could serve as a guide for the elaboration of such mechanisms. Since the existing mechanisms were based on the concept of disputes resulting from the overt use of armed force, they could not be used to solve such problems as that of mercenaries who attacked other States and were not officially in the service of any State.

31. His delegation hoped that those questions would be thoroughly discussed by the Committee.

32. Mr. KODJOVI (Togo) said that his country's efforts to advance its people along the path of development in harmony with all countries of the world would be in vain unless there was a favourable international climate. Believing international peace and security to be prerequisites for the progress of the peoples, it firmly supported the lofty principles set forth in the Charter of the United Nations, the scrupulous implementation of which by all countries could preserve that peace and security, as well as promoting the establishment of friendly relations and fruitful co-operation among nations, in a spirit of tolerance, mutual respect and good-neighbourliness.

33. The legitimate aspirations of the peoples to solidarity, fraternity and self-fulfilment had been fully recognized in the Covenant of the League of Nations, the Charter of the United Nations, and numerous declarations and bilateral or regional treaties. The human race had long been aware that its very survival demanded that every effort be made to avoid tension and war; that awareness had been heightened by the proliferation of weapons of mass destruction. The injustice, acts of intimidation, violence and destabilization attempts of which small defenceless countries were the victims were in flagrant opposition to those texts and to the peoples' aspirations.

34. The timeliness and importance of the Soviet initiative should be viewed in that context, which should also determine the direction of the Committee's work if it was to achieve the success so ardently desired. Whatever criticisms might be levelled at the draft treaty contained in document A/AC.193/L.3, it was only right to pay tribute to the Soviet initiative which had led to the establishment of the Committee and to renewed efforts by the international community to find appropriate

means of enhancing the effectiveness of the principle of the non-use of force in international relations.

35. However, in addition to the Soviet draft, the Committee also had to consider any proposals and suggestions which might be made by States. An appeal should be launched to Member States to submit a wide range of specific proposals as a necessary basis for the Committee's work. Care should be taken to avoid the negative approach according to which any new text would be useless, and even dangerous, in view of the profusion of existing instruments. Principles such as the prohibition of the use of force, the peaceful settlement of disputes, non-intervention, international co-operation, the equal rights of peoples, the right of peoples to self-determination and the sovereign equality of States had certainly been established, but the adequacy of the texts in which they were embodied might be more apparent than real. In certain cases the same texts simultaneously included provisions reaffirming doctrines which led to preparation for war. The stockpiling of increasingly sophisticated and deadly weapons likewise made respect for such texts practically impossible. For example, those Powers which had the right of veto could prevent the Security Council from stopping aggression when it was launched by one of them or by a country which one of them had decided to support. The concept of vital interests served as a pretext for totally unjustifiable acts of aggression. The interest of the proposals submitted for the Committee's consideration would lie in the extent to which they improved existing texts and conformed with the goal of finding appropriate ways effectively to guarantee peace and security for all. The proposals should be such as to enable further and more rapid progress with respect to the jus ad bellum, which had developed considerably in the past few decades.

36. New efforts would be needed to give those principles full meaning and increased effectiveness so that the differences of interpretation and implementation stemming from the contradictions of international relations would cease. The Committee should bear in mind that it was not enough to outlaw war in order to prevent it or to try to avert it by the guarantee of collective intervention or the threat of vigorous sanctions. Experience had shown that pressures were ineffective against certain great Powers. If the evil of war was to be uprooted, appropriate procedures would have to be found for the peaceful settlement of the disputes which gave rise to it. That was why there was a need, first and foremost, to overhaul the existing machinery and to put the judicial and political means for the peaceful settlement of disputes into general use. The experience of the Organization of African Unity had been fruitful in that respect. The Committee's efforts should be aimed primarily in that direction.

(Mr. Kodjovi, Togo)

37. Currently, overt or insidious force was being used on many fronts, with grave consequences for the interests of the peoples and the sovereignty of States. For that reason, many were of the opinion that the Committee should concern itself with a wide range of problems, including, for instance, the obstacles standing in the way of the exercise of the legitimate right of peoples to self-determination, the havoc wrought by ideological, cultural and economic imperialism throughout the world, arms production and trade, the over-arming of the planet, and the lack of progress on disarmament. Such a broad concept of the Committee's role was not without interest, but others believed that attempts to be all-embracing should be avoided and that limits should be set to the Committee's task so that it could accomplish its mission effectively in the interest of the peoples.

38. Mr. PINIES (Spain) said that the Committee was at the half-way stage between the idea of prohibiting the use of force in international relations and the establishment of means of giving it effect. Despite the large number of international instruments, including the Charter of the United Nations itself, in which the principle was embodied, wars of attrition, armed aggression and invasions had not come to an end. The Committee must not allow its deliberations to be limited to ineffective rhetoric for mere propaganda purposes. Its task should be to lay the foundation of a system that would be binding, in the strictest legal sense of the word, and which would bring about the total elimination of the use or the threat of force in international relations.

39. His Government could not but welcome any international agreement leading to arms reduction and control, the establishment of zones of peace and denuclearized zones, détente and security, international peace, and freedom for the peoples. It therefore especially welcomed the idea of a treaty which would place minimum binding and effective restrictions on the use of force or the threat of force in international relations. It was essential not to forget the three aspects that had been mentioned at the outset: enunciation of the idea, legal drafting, and effective implementation and control. The Committee had reached the second stage, where it was essential to bear in mind the machinery of checks and balances which could lead to genuine implementation of any instrument which Governments might sign as a result of the Committee's work.

40. In dealing with that important issue on a global basis his delegation believed that the concept of security, both collective and regional, should not be neglected, given the very special geo-strategic features of the modern world.

41. With regard to the draft world treaty contained in document A/AC.193/L.3, his delegation believed that the concept of refraining from the threat of force should appear in the title, because both the use and the threat of force were linked to the problem of peace. The title should therefore read "Draft World Treaty on the Non-Use of Force or the Threat of Force in International Relations".

42. His delegation would also favour compressing the first three preambular paragraphs into a single paragraph and shortening the next four preambular paragraphs so that they would refer basically only to the most important

(Mr. Pinies, Spain)

agreements or resolutions, such as the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States, the Definition of Aggression and the Final Act of the Conference on Security and Co-operation in Europe.

43. Article I seemed to refer to certain prior undertakings rather than to any new undertakings. It would be more logical to replace the words "shall strictly abide by their undertaking" in the first line by the words "shall undertake". Furthermore, it must be made clear in the second part of that sentence whether the words "their international relations" referred to relations between the High Contracting Parties themselves or their relations with other States.

44. With regard to article II, his delegation wondered whether, rather than repeating the wording of the Charter, it might not be preferable to establish new international norms governing the obligations of States with regard to international disputes. If all that was done was to reaffirm the system established by Articles 33 to 38 of the Charter, a unique opportunity would be missed to make a positive contribution to the codification and progressive development of international law.

45. Article III should make reference to the concepts of self-defence and recourse to force as authorized by the United Nations under Article 51 of the Charter. Article IV, with its appeal for general and complete disarmament, should, in the opinion of his delegation, form part of the preamble, thereby highlighting the desire of the Contracting Parties to abandon the arms race and increasingly to resort to the peaceful solution of international disputes.

46. In conclusion, he stressed that the Committee should be guided above all by the idea that the final result must win the general approbation of the various groups if it was to bear fruit and become a binding set of guidelines for Governments and an effective step on the long road to genuine universal détente.

47. Mr. BENNOUNA (Morocco) said that his delegation could not fail to support any initiative aimed at enhancing the effectiveness of the principle of non-use of force in international relations. In participating in the work of the Committee, his country had no ulterior political motive or selfish interests to defend. It sincerely believed, as a non-aligned and developing country, that peace among nations promoted the prosperity and well-being of all.

48. It was the Committee's task to explore means of making the general prohibition of the use of force by States, as set forth in Article 2, paragraph 4, of the United Nations Charter, more effective. As other speakers had said, there could be no question of relaxing what was a binding rule of international law or of merely reiterating existing obligations. However, the Charter had not been able to disregard two basic facts of the modern world, namely the need for a system of collective security to avoid world-wide conflagrations and the existence of national entities desirous of preserving their sovereignty and territorial integrity. In Chapter VII of the Charter the Security Council had been given the responsibility for taking action with respect to threats to the peace, breaches

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(Mr. Bennouna, Morocco)

of the peace and acts of aggression, and the inherent right of individual or collective self-defence if an armed attack occurred against a Member of the United Nations had been recognized.

49. It would be difficult to draw up a new international instrument on the non-use of force without taking into account the work of the Special Committee on the Definition of Aggression and particularly article 3, subparagraph (g), of the Definition of Aggression contained in General Assembly resolution 3314 (XXIX).

50. It was no longer possible to condemn in words the use of force in international relations while undertaking subversive actions designed to destabilize whole regions and to set up hegemonic systems. His country would continue to oppose such practices, whatever the ideologies which inspired them. It was essential that a new international instrument on the non-use of force should contain a clear denunciation of direct or indirect outside intervention against the political independence or territorial integrity of States. The peoples of the third world had suffered as a result of proxy wars and for that reason they would henceforth demand the right to play a full role in international relations rather than remaining mere pawns on the chessboard of the great Powers.

51. National realities inevitably led to disputes among States. If they were not to degenerate into armed conflict it was necessary not only to develop the rule of non-use of force and to strengthen the institutions responsible for implementing it, but also to strive for the widest possible acceptance of peaceful means of settling disputes. His country strongly supported procedures for the peaceful settlement of disputes, such as those set forth in Article 33 of the Charter, and had taken care to have recourse to international negotiation whenever it had had political or legal disputes with other States.

52. Like the prohibition of the use of force, the obligation to settle disputes peacefully was binding upon all States; there could be no derogation from that principle. That view had been reaffirmed recently by the International Court of Justice in the judgement it had given on 11 September 1976 with regard to the continental shelf of the Aegean Sea.

53. Any new international instrument on non-use of force should stress the strengthening of three essential aspects of the issue: the general prohibition on the use of force in all its forms, the world-wide and regional international institutions which implemented it, and peaceful means of settling disputes.

54. Mr. MIRCEA (Romania) said that his country's constant concern for the observance of the principles of international law was reflected in the activities of President Nicolae Ceaușescu aimed at ensuring respect for the fundamental principles of inter-State relations and formulating new norms which would further clarify those principles and thereby contribute to an improvement in international relations. In a recent survey of the international situation, the President of Romania had drawn attention to the danger of the tendency to resort to force or other means in order to secure domination over other States. He had also

(Mr. Mircea, Romania)

referred to the increasing significance of a new policy of co-operation among States and had stressed that progressive forces must strive to ensure that that policy prevailed on a world scale. He had declared that Romania, for its part, would spare no effort in seeking the adoption of truly equitable policies in international life.

55. His delegation considered that world peace and the exercise by each people of the right freely to choose the paths of its economic and social development were directly dependent on the degree to which the principle of the non-use of force was respected. The obligations assumed by Member States by virtue of Article 2, paragraph 4, of the Charter to refrain in their international relations from the threat or use of force had been clarified and developed in a number of basic United Nations documents, including the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations and the Definition of Aggression. The principles of the non-use of force and the peaceful settlement of disputes had also been developed in a number of regional instruments, including the Final Act of the Conference on Security and Co-operation in Europe.

56. In the light of those developments, the Committee's task was clear. In his delegation's view, the Committee should draw up a comprehensive international instrument based on the principle of the non-use of force, with a view to the abolition of force in international relations. The Committee should, in keeping with its mandate, also contribute to the strengthening of the principle of the peaceful settlement of disputes and of United Nations machinery geared to the achievement of that objective. Romania had already proposed the elaboration within the United Nations of a treaty concerning the peaceful settlement of disputes and the adoption of a universal code of conduct setting forth the fundamental rights and duties of States.

57. The conclusion of a world treaty on the non-use of force in international relations, as proposed by the Soviet Union in document A/AC.193/L.3, would be of paramount importance for the genuine security of all nations and would make a valuable contribution to the establishment of a new international order. Romania therefore firmly supported the idea of preparing, as soon as possible and with the participation of all States, a single document of universal validity, establishing the obligations of States to refrain in their mutual relations from the threat or use of force in any circumstances and under any pretext. Since the United Nations offered the most appropriate organizational framework for considering the problems of peace and security with the participation of all States, it was the forum in which such a treaty should be drawn up.

58. The proposed treaty should be broad in scope, encompassing prohibition of the use of armed force and other forms of force and pressure in international relations, such as economic and political pressure and war propaganda, and the obligation to resort to the peaceful settlement of disputes. It should also include the new elements arrived at within the United Nations and at the Conference on Security and Co-operation in Europe concerning the detailed definition of the obligation

(Mr. Mircea, Romania)

of States to refrain from the threat or use of force. Emphasis should also be placed on the territorial aspects of the non-use of force or the threat of force, such as prohibition of the occupation of territory and other acts directed against the unity and territorial integrity of States, and prohibition of the deployment of the armed forces of a State against the territory of another State. The treaty should contain the express obligation of nuclear-weapon States to refrain from using nuclear weapons or threatening to use them against non-nuclear-weapon States and not to be the first to use such weapons. It should also provide expressly for the right of each State to defend itself against armed attack and for the right of peoples to wage a struggle, including armed struggle, for their liberation from colonial domination.

59. In order to ensure the effectiveness of the obligations assumed by States parties, the proposed treaty should incorporate the obligation of all States to adopt effective measures for disarmament and to reduce the danger of a confrontation between them, in view of the close link between the principle of the non-use of force and the achievement of general and complete disarmament.

60. His delegation emphasized the need for the peaceful settlement of disputes through political negotiations. The non-use of force in settling international disputes favoured a constructive approach to pending problems with a view to extinguishing hot-beds of conflict and averting the emergence of new sources of tension and conflict, in order to ensure that inter-State relations were based on mutual understanding, respect and co-operation.

61. Romania had also proposed the establishment of a commission of the General Assembly to fulfil the functions of mediation, good offices and conciliation with a view to averting tension and armed conflicts and assisting States to find solutions based on mutual comprehension, good neighbourliness and peaceful coexistence.

62. His delegation was convinced that the process of drawing up the proposed world treaty would provide an opportunity for the development of the principle of the non-use of force or the threat of force, taking into account the progressive development of international law, the need to maintain peace and security and the existing situation with regard to relations among States.

63. His delegation would contribute to the best of its ability to the preparation and negotiation of a treaty on the non-use of force and threat of force. Its conclusion would mark an important stage in efforts to abolish the policy of force, domination and diktat and to build a better and more just world. Such a treaty would have a considerable preventive effect, constituting a legal instrument for discouraging and disarming the aggressor, who would not be able to invoke any argument to justify the threat or use of force.

ORGANIZATION OF WORK

64. The CHAIRMAN said he hoped that, in view of the limited time remaining before the end of the session, the Committee would be able on the following day to consider its future work and take a decision on the Bureau's suggestion to request the Secretariat to prepare an analytical table of references made in the General Assembly and in the Committee itself to individual articles of the draft treaty proposed by the Soviet Union (A/AC.193/L.3).

65. Mr. ROSENSTOCK (United States of America) expressed the view that any ideas as to the Committee's future work would necessarily be extremely tentative: it would be presumptuous of the Committee to take decisions on its future work until it had heard all statements in the general debate, for those statements might present further ideas and suggestions.

66. Mr. KOLESNIK (Union of Soviet Socialist Republics) observed that there was already an abundance of material on the basis of which the Committee could undertake more tangible work without interfering with the course of the general debate. Consequently, he fully agreed that the Committee should as soon as possible give some thought to the next stage of its work and to the need for an early decision concerning the preparation of the analytical table suggested by the Bureau. Such a table should contain not only the views and proposals put forward by delegations in the Committee but also those submitted in writing to the Secretary-General and by delegations to the thirty-first and thirty-second sessions of the General Assembly. The table would be useful to each delegation, regardless of its particular views on the Soviet draft treaty.

67. Ms. d'HAUSSY (France) said she thought it would be premature to take a decision on the Committee's future work before all delegations wishing to speak in the general debate, including her own, had had the opportunity to do so.

68. Mr. ROSENSTOCK (United States of America) said that his delegation had doubts as to whether the proposed analytical table would be appropriate, whether it would be fair to burden the Secretariat with such a task and whether the document could be properly prepared at the current stage. Noting that the Committee's work was closely paralleled by the work of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, he recalled the suggestion put forward in the latter body to the effect that the Secretariat should prepare a table containing the comments or suggestions of delegations concerning individual articles of the Charter. The highly subjective nature of that suggestion and its political sensitivity had led that Committee to decide that the Secretariat should be requested to produce a simpler compilation of the views expressed. If that was the task which the Bureau now had in mind, the Committee should await the draft report, in which the Rapporteur would summarize the views of delegations. The Committee had not reached the stage where it could regard any text, other than the Charter, as the basis for a comparative table, and it would be quite premature to request the Secretariat to prepare such a table.

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69. Mr. KOLESNIK (Union of Soviet Socialist Republics) said that he was rather surprised at the comments made by the United States representative, especially his reference to the work of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization. It was well known that that Committee had had before it from the outset an analytical study prepared by the Secretariat, with addenda containing specific proposals.

70. What was now involved was not a delicate political question but simply the question of the kind of compilation which should be made of the various proposals put forward. The table had been proposed without any hidden designs and merely in order to assist the Committee in its work. There was no reason to await the end of the general debate before preparing such a document.

71. Mr. MOUNGAVOU (Benin) agreed that there was no reason why the Secretariat should not be requested to prepare such a table, which would be very useful to delegations. In his view, there was no question of the preparation of such a document being a subjective or politically sensitive task.

72. The CHAIRMAN said that the matter would be discussed on the following day, by which time the Committee would have a clearer idea as to when the general debate might end.

The meeting rose at 1 p.m.

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SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS

SUMMARY RECORD OF THE 11th MEETING

Held at Headquarters, New York,
on Wednesday, 6 September 1978, at 10.30 a.m.

Chairman: Mr. CUEVAS CANCINO (Mexico)

CONTENTS

Con ideration, pursuant to paragraph 2 of General Assembly resolution 32/150, of proposals and suggestions submitted by States (continued)

Organization of work

This record is subject to correction.

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Any corrections to the record of this meeting and of other meetings will be issued in a corrigendum.

The meeting was called to order at 11 a.m.

CONSIDERATION, PURSUANT TO PARAGRAPH 2 OF GENERAL ASSEMBLY RESOLUTION 32/150, OF PROPOSALS AND SUGGESTIONS SUBMITTED BY STATES (continued) (A/AC.193/L.3)

1. Mr. CANALES (Chile) said that his country saw the defence of peace as a moral and legal obligation for all nations. Peaceful coexistence and international co-operation depended on respect for the rights and sovereignty of nations, on non-intervention in the internal and external affairs of States, on the peaceful settlement of international disputes, on the non-use of force and on respect for treaties. The most effective way to establish world peace was to comply strictly with the principles of the Charter and to fulfil in good faith the obligations arising from it.

2. The proposed draft, the aim of which was to achieve world peace by means of a treaty on the non-use of force in international relations, required careful consideration with regard to its legal implications in order to establish whether such a treaty would contribute to the strengthening of international law and be in keeping with the aims of the United Nations or whether its provisions would conflict with the existing norms of international law or with the provisions of the Charter itself.

3. The fundamental principles of contemporary international law were set forth in the Charter, and the principles of the non-use of force and the peaceful settlement of disputes were not only set forth clearly in the Charter itself but also in many United Nations resolutions and in various bilateral and multilateral agreements. General Assembly resolution 2625 (XXV) referred, inter alia, to the principles in question. It did so, moreover, in very comprehensive terms, whereas that was not true in the case of the draft Treaty now before the Committee (A/AC.193/L.3). His delegation felt that the Treaty should, for example, include the following paragraph appearing in resolution 2625 (XXV): "Every State has the duty to refrain from organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of said acts, when the acts referred to in the present paragraph involve a threat or use of force". That requirement deserved attention because terrorism was a form of struggle being employed on several continents. The draft Treaty should also include the following paragraph from the preamble to resolution 2625 (XXV): "Recalling the duty of States to refrain in their international relations from military, political, economic or any form of coercion aimed against the political independence or territorial integrity of any State." There were industrialized countries and great military Powers that could cause at least as much harm by means of political, ideological, economic and other types of pressure as by means of military coercion.

4. With regard to the principle of peaceful settlement of disputes, article II of the draft World Treaty merely reiterated provisions of the Charter and, at the same time, omitted many concepts that were clearly set forth in the Charter. Moreover, in article I, dealing with the non-use of force, no mention was made of the instances in which the Charter made provision for the use of force.

(Mr. Canales, Chile)

5. Even though the most effective way to put a stop to the threat or use of force was to achieve the elimination of Member States' armed forces, it was not appropriate to devote a special article of the draft Treaty to that question, since matters relating to disarmament had been entrusted to specific United Nations bodies.

6. As his delegation had observed in the First Committee at the thirty-first session of the General Assembly, if principles and rights were respected with the good faith called for by the Charter, there would be no need for the proposed special treaty. If principles and rights already in existence were not respected, such a treaty would probably be treated with the same lack of respect.

7. His delegation supported any initiative directed towards fulfilling the fundamental aim of the United Nations, namely, the maintenance of international peace and security, but it could not endorse a draft of which, in its opinion, the following could be said: (a) it merely reiterated the provisions of the Charter, (b) it was incomplete and did not represent a step forward in international law, and (c) there were omissions in the text, since it did not include the exceptions to the general prohibition of the non-use of force provided for in the Charter.

8. Mr. MAGNAVITA (Brazil) said that the subject under consideration by the Special Committee constituted the very "raison d'être" of the United Nations. The Charter dealt with the principles of the non-use of force and the peaceful settlement of disputes in Article 2, paragraph 4, and Chapter VI; a single exception was provided for in Article 51. Chapter VII of the Charter unequivocally gave a monopoly of the use of force to the United Nations. There was no doubt whatsoever that the Charter covered all those matters comprehensively. The principle of the non-use of force in international relations had also been incorporated into a number of United Nations resolutions and into bilateral and multilateral instruments currently in force.

9. His delegation therefore remained unconvinced of the necessity or advisability of supplementing the Charter on that specific point. Nevertheless, it would not fail to co-operate in preparing a document that would reinforce the principle of the non-use of force once a consensus was reached on the need for such a document. His delegation would then work for the preparation of a text embodying other related principles, such as the sovereign equality of States, non-interference in the internal affairs of States, the duty of Member States to co-operate among themselves with a view to the promotion of peace, international security, economic development and stability, and self-determination and independence for all peoples of the world. The elaboration of such a treaty should take place concurrently with the consideration of other problems pertaining to the essence of international security.

10. In order to achieve its real aims, a treaty on the non-use of force should, moreover, go beyond the problem of the deployment of armed forces and consider other forms of coercion that were frequently as effective as military means, such as economic or other types of aggression.

ORGANIZATION OF WORK

11. The CHAIRMAN, replying to a question by the representative of the Soviet Union, said that at a recent meeting of the Bureau the possibility of the Committee's approving an analytical table of the various articles of the Soviet draft had been put forward and the establishment of an open-ended group had been proposed.

12. Further points that had been discussed were: the exceptions which it had been felt should be provided for in the draft Treaty, the implications of the Committee's work for disarmament and peace-keeping operations, and the problem of the incorporation into domestic law of the principles established in the draft Treaty.

13. Although a majority of the speakers who had already taken part in the general debate supported the idea of proceeding with discussion of the Soviet draft, others had expressed objections. He hoped that the Committee would determine at its next meeting whether its decisions were to be adopted by consensus or by taking a vote.

The meeting rose at 11.30 a.m.

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SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS

SUMMARY RECORD OF THE 12th MEETING

Held at Headquarters, New York,
on Thursday, 7 September 1978 at 10.30 a.m.

Chairman: Mr. CUEVAS CANCINO (Mexico)

CONTENTS

Consideration, pursuant to paragraph 2 of General Assembly resolution 32/150, of proposals and suggestions submitted by States (continued)

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The meeting was called to order at 11 a.m.

CONSIDERATION, PURSUANT TO PARAGRAPH 2 OF GENERAL ASSEMBLY RESOLUTION 32/150, OF PROPOSALS AND SUGGESTIONS SUBMITTED BY STATES (continued) (A/AC.193/L.3)

1. Mr. ZEHENTNER (Federal Republic of Germany) said that it was gratifying to note the full agreement on the fact that safeguarding and maintaining international peace and security continued to be the overriding task of the United Nations. Prohibition of the use of force was essential for the maintenance of peace. It was in the interest of the community of States as a whole to reaffirm and strengthen that basic principle, which was contained in Article 2, paragraph 4, of the Charter. War and the threatened or actual use of force against States barred the road to reducing military confrontation through greater mutual confidence and to general and complete disarmament, to reducing the existing disparities between industrialized and developing countries and to implementing the right of peoples to self-determination.

2. For the Federal Republic of Germany in its special geographical situation at the border between the two power blocs, the principle of the non-use of force was of vital importance and formed a key element of foreign policy. Through that policy, his Government had made a significant contribution to preventing the threat or use of force in Europe.

3. While the aim of resolution 32/150 commanded general agreement in the Committee, the actual fulfilment of the Committee's mandate evoked widely divergent views. Given the complexity of the subject, that was not surprising. Yet, it would not absolve the Committee from the imperative though difficult task of trying to reach a consensus. Only on the basis of such a consensus, and not by a numerical majority, would it be possible to arrive at meaningful and workable solutions.

4. The prohibition of the use of force laid down in Article 2, paragraph 4, of the Charter constituted an injunction of unprecedented scope and unparalleled legal force. In past decades, however, there had been an alarming number of violations of that prohibition. Although the Charter had spared mankind a third world war, there were increasing outbreaks of limited war and innumerable cases of the threat and use of military and other force. The United Nations had proved unable to control or curb the accelerating arms race. The war potential of States was steadily increasing, and the threat to peace had never been so great. Irrespective of individual opinions on the draft Treaty submitted by the Soviet Union, his delegation hoped that the Soviet initiative would give rise to fruitful dialogue and produce the requisite results.

5. The task of the Committee must be to locate loop-holes, ambiguities and other short-comings in the provisions of Article 2, paragraph 4, of the Charter and identify ways of correcting them. Under Article 2, all Member States were committed to refrain from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner

(Mr. Zehentner, Federal Republic of Germany)

inconsistent with the purposes of the United Nations. It was the general view that that rule did not admit of any derogation.

6. Under Article 24 of the Charter, the Security Council was allowed a substantial amount of discretion in its task of maintaining international peace and security. The Charter provided no precise definition of such terms as "threat to peace", "breach of peace" or "act of aggression". The legal terms used in connexion with the prohibition of the use of force in Article 2, paragraph 4, also required interpretation; that was particularly true of the term "force", which obviously involved several different kinds of force apart from military force.

7. It had become evident that the principle of renunciation of force in international relations could not be considered without simultaneously taking into account the fundamental right of all States to self-defence, whether individual or collective. Article 51 of the Charter clearly recognized that inherent right, while being less clear on its substantive content. History had shown that the obligation of States under Article 2, paragraph 4, had been violated time and again. The continued arms race showed that States were preparing themselves for the use of arms in the future as well. In order to counter the dangers inherent in that situation in the interests of international peace and security, a credible alternative must be offered to the solution of problems by force. That need was recognized in the Charter, which raised States' commitment to the peaceful settlement of disputes to the rank of a basic principle. Yet, neither that commitment nor its procedural elements as stipulated in Chapter IV of the Charter had yet been fully implemented. The obligation of States to settle international disputes by peaceful means was the logical corollary of the prohibition of the use of force. Well-functioning mechanisms and institutions for the peaceful settlement of disputes were certain to create confidence and to facilitate the observance of the principle of the renunciation of force.

8. The Soviet Union had proposed that the Committee should draft a World Treaty on the Non-Use of Force in order to fulfil its mandate. His delegation respected the motives behind the Soviet proposal; however, there was considerable doubt in the Committee as to the appropriateness of that course, and the objectives and doubts of many delegations in that respect required careful consideration. It seemed a delicate undertaking for a binding convention to restrict itself wholly or in part to repeating the substantive content of basic rules and principles of the Charter. The prohibition of force contained in Article 2, paragraph 4, was not subject to the discretion of the parties. If the rule was made the subject of a convention, there was a danger that misunderstandings and misinterpretations would ensue. If Member States chose not to ratify such a convention or to qualify their accession by resorting to reservations or interpretative explanations, it was not clear whether the problems thus raised could be solved by the provisions of Article 103 of the Charter, according to which the obligations of Member States under the Charter prevailed over their obligations under other international agreements. Should the contents of a new treaty deviate from the Charter, however,

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(Mr. Zehentner, Federal Republic of Germany)

the resultant complications would run counter to the desired end. It would be impossible to prevent a conflict between two different sets of rules intended to apply to one and the same situation.

9. The Committee would also have to consider whether making the principle of the non-use of force the subject of a separate convention would not isolate it from the over-all legal context and structural setting of the Charter. Such a course seemed hazardous in view of the close interrelationship between the prohibition of the use of force and the remaining principles and procedures laid down in the Charter.

10. The legal form in which the development and codification of international law should take place had to be decided in each case after careful analysis. In the field of the non-use of force, the General Assembly had so far restricted itself to resolutions and declarations. A different approach had been chosen in the case of the International Covenants on Human Rights, but no immediate parallel could be drawn between the subject-matter of the Covenants and the principle of the non-use of force.

11. The search for reliable means of peacefully resolving both open and latent conflicts must continue. His delegation was convinced that the elimination of the use of force in international relations could best be achieved if such means were found. It would then be of secondary importance whether the non-use of force was reaffirmed in a treaty or in some other instrument.

12. Mr. PANCARCI (Turkey) said that his Government was firmly resolved to use all its efforts for the achievement of the goals of the United Nations and to support all serious initiatives which would promote the implementation of the principles of the Charter. In accordance with the traditionally pacifist policy which it had pursued since its establishment, the Republic of Turkey was against the unlawful use of force and had always sought to discourage aggressive tendencies. In the course of its history, it had concluded a number of bilateral and multilateral agreements under which it had undertaken not to resort to war as an instrument of national policy and to have no part in any act of aggression committed by a third State.

13. His country continued to pursue the same policies in the United Nations. It believed that the establishment and maintenance of a just and lasting peace depended as much on the elimination of poverty, ignorance and injustice as on the prohibition of the unlawful use of armed force. Turkey had also tried to play a constructive role at the Conference on Security and Co-operation in Europe, and Turkish judicial bodies had already begun to implement the Final Act of that Conference.

14. The task facing the Special Committee was extremely delicate, and success would depend on the active co-operation of its members. In that connexion, it was to be hoped that the Committee would avoid useless political polemics. It was too soon to say what the aim of its work should be.

(Mr. Pancarci, Turkey)

15. His delegation was opposed to the unlawful use or threat of force. If force was used exclusively to uphold the law, the resulting situation would be just and democractic. However, if the law was used in support of force, the result would be tyranny. In establishing a healthy and ordered international community, it was essential that force should be used to uphold the law and not to serve the interests of a State or group of States. If the principle of the non-use of unlawful force had not proved as effective as expected, it was not because of any short-comings in the United Nations Charter but because of the abnormal situation facing the international community, particularly the arms race and the continued existence of poverty, ignorance and injustice. It was not social and political situations that had to be brought into line with legal and political norms: on the contrary, the latter must be brought into line with the situation prevailing in the international community. It was therefore essential to improve the international atmosphere, or even the most perfect law would remain a dead letter. The Special Committee should consider the basic reasons behind the failure to implement the principle of the non-use of force, namely the arms race and underdevelopment.

16. As far as the peaceful settlement of disputes was concerned, his delegation had expressed its views in the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization (A/AC.182/WG.7/Rev.1). With regard to the draft World Treaty submitted by the Soviet Union (A/AC.193/L.3), it was important to make clear that it was the unlawful use of force that was forbidden. The legitimate use of force to maintain peace and order, as provided for in Article 51 and Chapter VII of the United Nations Charter, would always be necessary. The principle of the legitimate use of force had also been recognized in many treaties and conventions, particularly multilateral and bilateral mutual defence agreements. Article III of the Soviet draft was therefore indispensable. The principle of "pacta sunt servanda" constituted the backbone of international law and was much more important than the principle of the non-use of force.

17. Some representatives had referred to the question of treaties concluded under the threat of force and treaties that were inconsistent with a basic norm of general international law, namely "jus cogens". Those questions had already been discussed at length within the United Nations system and had been settled in the Vienna Convention on the Law of Treaties. There was therefore no need to reconsider them. The Special Committee should concentrate on establishing criteria for distinguishing legitimate from illegitimate uses of force. His delegation would support all proposals designed to enhance the effectiveness of the principle of the non-use of unlawful force in international relations and the principle of the peaceful settlement of international disputes, provided that such proposals were realistic and enjoyed the support of a majority of the members of the Committee.

18. Mr. WANI (Uganda) said that when his country had entered the community of nations it had been impelled by a desire for international peace and security, and that desire continued to motivate its actions in the United Nations, the Organization of African Unity and the Group of Non-Aligned Countries. Uganda had adhered strictly

(Mr. Wani, Uganda)

to its obligations under the Charter of the United Nations but was disappointed to note that, although almost all countries condemned the use of force, practically every region of the world suffered as a result of acts of aggression and wars by proxy. For those who encouraged such wars, the suffering of third-world countries was a blessing. His country condemned such attitudes and believed that success in finding a solution to the problem of the use of force depended on whether States displayed the necessary political will and mutual respect. As long as States haboured expansionist designs and pursued a policy of world-wide nationalism, lasting peace would be impossible, since each nation must decide what was best for itself.

19. The division of the world into spheres of influence was a further cause for serious concern and had been responsible for many conflicts. His country attached great importance to the liberation of peoples from foreign domination and gave its unreserved support to peoples living under colonial rule. As long as apartheid, racism, racial discrimination and foreign domination continued to exist in southern Africa and elsewhere, a lasting peace would be impossible, since the legitimate struggle for liberation would be intensified. His delegation wished to reaffirm its commitment to seeking a peaceful solution to the question of the non-use of force and welcomed the timely initiative taken by the Soviet Union. The draft Treaty submitted by the Soviet Union had been subjected to various criticisms, but it would be wrong to judge the issue prematurely or to abandon the search for a lasting solution.

20. Mr. ROSSIDES (Cyprus) said that the international community owed a debt of gratitude to the Soviet Union for focusing its attention on the most important part of the Charter of the United Nations. The prevention of the use of force in international relations was after all the raison d'être of the United Nations. The Charter was an extremely well-drafted document in that it clearly established the close links between the concept of the peaceful settlement of disputes, the principle of the non-use of force in international relations and the need for effective machinery to enforce that principle (Article 2, paras. 3-5). However, the provisions of the Charter had been ignored and the decisions of the Security Council had not been enforced. Nations were therefore able to commit acts of aggression with impunity, and many feared for the survival of mankind. Such a situation was intolerable.

21. It was difficult to see how a new international economic order could be established when there was no legal order conducive to international security. Moreover, the financial resources for the establishment of a new international economic order were lacking, since billions of dollars were being diverted towards arms. There appeared to be feverish preparations for a major war and a continued adherence to the principles of force and domination. The world had become polarized, and the concept of the balance of power had been replaced by that of the balance of weapons, with a resultant escalation of the arms race. The Special Committee had a vital role to play in attempting to halt that process, which could lead only to mass destruction.

(Mr. Rossides, Cyprus)

22. Many problems connected with development and the establishment of a new international economic order arose from the violation of Charter provisions regarding the enforcement of measures adopted by the Security Council. That situation was sure to have serious consequences. A treaty on the non-use of force, in addition to being a conscious reaffirmation of the prohibition of the use of force, could provide for effective action to ensure the implementation of Security Council resolutions. The question had been raised as to how the Security Council could properly adjudicate cases of aggression when aggression had not been defined in the Charter. The world community did, however, have a definition of aggression, which was to be found in General Assembly resolution 3314 (XXIX). The Security Council could adopt the required measures in cases of aggression, but, again, it was imperative that its resolutions should be implemented. His delegation was encouraged to note that in recent years that imperative had been clearly reflected in the introduction to the report of the Secretary-General on the work of the Organization. Another encouraging development was the study on the relationship between disarmament and development undertaken pursuant to General Assembly resolution 32/88.

23. Statements made by the representatives of Poland, the Union of Soviet Socialist Republics, India, Iraq, the United Kingdom and Italy suggested that the Eastern European States, the non-aligned States and the Western European and other States acknowledged that the provisions of Article 2, paragraphs 3, 4 and 5, of the Charter had not always been adequately respected and that they recognized the need for greater effectiveness of Security Council resolutions, for enforcement action to deter aggression and for enforcement of the prohibition of the use of force, rather than a mere reaffirmation of that prohibition. Cyprus believed that a treaty on the non-use of force should make specific provision for the more effective enforcement of the prohibition and develop the procedures for the peaceful settlement of disputes, since such procedures were not included in Chapter VI of the Charter.

24. It was important that the various criticisms of the draft World Treaty on the Non-Use of Force in International Relations (A/AC.193/L.3) should be turned into positive contributions. Delegations which had complained about specific points in the draft should produce concrete proposals for its improvement. For its part, his delegation would suggest that a fourth paragraph should be added to Article I to state that violations of obligations assumed under the Treaty would entail enforcement measures provided for in Chapter VII of the Charter.

25. The situation in Cyprus offered a unique example of the non-implementation of resolutions, namely, General Assembly resolution 3212 (XXIX) and Security Council resolution 365 (1974). Never before had unanimously adopted resolutions remained unimplemented in such an astonishing way. The Cyprus situation was related to the questions before the Special Committee since it highlighted the unfortunate results of the lack of enforcement measures. Because of the lack of such measures, the two resolutions to which he had just referred had been contemptuously disregarded, the foreign occupation of Cyprus had continued, two thirds of the indigenous population had been expelled, and their homes and property had been usurped by an alien population.

(Mr. Rossides, Cyprus)

26. It was not enough for the Special Committee to engage in legalistic discussions. Efforts should be made to ensure that comments and criticisms resulted in constructive proposals and positive action. The world was witnessing an unprecedented spectacle of insecurity, anarchy and strained relations at all levels. The future of mankind looked grim; time was of the essence if world destruction was to be averted.

The meeting rose at 12.50 p.m.